

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 -against-

6 MICHAEL MCMAHON, ET AL.,

7 Defendant.
8 -----x

21-CR-265 (PKC)

United States Courthouse
Brooklyn, New York

June 6, 2023
9:00 a.m.

9 TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
10 BEFORE THE HONORABLE PAMELA K. CHEN
11 UNITED STATES DISTRICT JUDGE
12 BEFORE A JURY

11 APPEARANCES

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24 Proceedings recorded by mechanical stenography. Transcript
25 produced by computer-aided transcription

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9 * * * * *

10
11 (In open court; Jury not present.)

12 MR. LUSTBERG: Judge, I'm sorry to interrupt. I see
13 that Mr. Tung is not here. I just wanted to -- before you
14 started.

15 THE COURT: Thank you. That's a very good note.
16 What happened to him, do we know?

17 MR. LUSTBERG: I don't have any idea.

18 THE COURT: Not your turn to mind him.

19 MR. HEEREN: I think Mr. Tung's assistant is here.

20 THE COURT: So can you go find your boss?

21 MR. TANG: I will get up and call him up.

22 THE COURT: Yes, that's a good idea.

23 I was going to say maybe we can use the time
24 profitably while we wait for Mr. Tung and his client to
25 reappear to allow Mr. Lustberg to make his arguments on the

1 additional postarrest statements he wants to include or have
2 presented to the jury for Mr. McMahon.

3 So why don't you go ahead, Mr. Lustberg, and make
4 your additional arguments beyond your written submission.

5 MR. LUSTBERG: Thank you. Thank you very much, your
6 Honor. I do -- I really do appreciate the opportunity to --
7 here we go.

8 THE COURT: Okay. That's all right. Mr. Tung is
9 here. I assume his client is -- Mr. Tung, is your client here
10 as well?

11 MR. TUNG: I just receive a call. He just got off
12 the subway station, so he's walking towards here.

13 THE COURT: Okay. So we're going to go ahead and
14 let Mr. Lustberg make his arguments regarding the postarrest
15 statements.

16 So go ahead, Mr. Lustberg.

17 MR. LUSTBERG: Thank you, your Honor. I
18 specifically asked the Court for an opportunity to just add
19 these few things. We think -- obviously, I believe in all of
20 my motions, but this one I think really goes so fundamentally
21 to the fairness of the proceedings that I just wanted an
22 opportunity to respond to say three additional things that
23 were not in my papers.

24 THE COURT: All right.

25 MR. LUSTBERG: First, the first excerpt that we

1 proposed adding is characterized by the government as an
2 entirely separate conversation, but it actually occurs only
3 nine minutes after the excerpt that the government has
4 proposed to include. And this is obviously very different
5 from -- in disregard from the excerpt, this is the second
6 point I wanted to make that your Honor allowed Mr. Tung to
7 include, which occurred 45 minutes later in his interview.
8 Obviously, any excerpts can be distinguished one from the
9 other, but one of the issues on rule of completeness, as your
10 Honor has repeatedly pointed out and as the government has
11 argued, is whether it's somehow an effort to backtrack and to
12 retract what someone -- it's obviously much less likely nine
13 minutes later than it is 45 minutes later, and so I think that
14 the question here was the question of whether Mr. McMahon
15 understood that this was a criminal matter or a civil matter,
16 and he uses the word "prosecute," which as I point out has
17 some ambiguity. The government with some force argues but it
18 says prosecute him, which sounds more criminal, there's some
19 ambiguity in that I would respectfully submit, and I think the
20 parties are going to argue that to the jury at the end of the
21 day, if we want to talk about what it means or doesn't mean,
22 and that seems to be an appropriate place to do it. But
23 either way, I just wanted to point out both --

24 So like two of my three points, one, this is only
25 nine minutes later, and second, that under the jurisprudence,

1 such as it is, that this Court has already begun to develop in
2 this area with Mr. Tung, it would seem like sort of a fortiori
3 this should be included.

4 The second --

5 THE COURT: Okay.

6 MR. LUSTBERG: The last point I wanted to make is
7 this, there really -- and I apologize for not including this
8 in my original submission. The statement at issue says -- the
9 specific statement is they would -- they could prosecute him.
10 That's the statement that the government says is the -- that
11 where I'm most concerned about. There are many statements.
12 Look, I mean, the whole process is a cherry-picking process
13 where they're taking part of a statement and not others. But
14 I understand that the law allows that.

15 What I'm -- the "they" is also ambiguous, who the
16 "they" is. So the second excerpt that I proposed to include
17 was a statement that says -- that makes clear that Mr. McMahon
18 understood that the people with whom he was meeting were,
19 quote, a part of the construction company. That obviously is
20 important. I do think, your Honor, that it doesn't require --
21 and we are continuing to argue that it doesn't require that we
22 get into the whole civil case or whether there was a civil
23 case, but that is his defense, was that he understood he was
24 working for a construction company, and this bears that out.
25 And without understanding what is meant by the word "they,"

1 which is what the word context means in the Second Circuit
2 case law on this, it's impossible to understand what he's
3 talking about there. And the prior reference -- and it's
4 sometime earlier, you know, that -- it was on pages -- on
5 page 23, whereas the excerpts here are in, you know, in the
6 area of the 50s, so it's sometime earlier. But it does
7 explain what he would mean by "they" when he made that
8 statement.

9 So that was a point that I failed to make in my
10 written submission. As I said, your Honor, I apologize for
11 that failure. To be honest, it was -- you know, I read
12 Mr. Heeren's submission, and it, you know, obviously made me
13 think about the whole issue again. So I wanted to make sure I
14 had an opportunity to address that with the Court before your
15 Honor decided this issue.

16 THE COURT: All right. Thank you very much. And
17 let me just say, Mr. Lustberg, I do appreciate the
18 reasonableness with which you approach all of these issues.
19 And I perceive that you -- or it's my feeling that you make
20 only those arguments you think have merit, and so that I
21 appreciate and certainly take into consideration in evaluating
22 this issue, which I don't think is clearcut, I won't say, but
23 I'll hear from the government as well.

24 Mr. Heeren, if you want to respond to what
25 Mr. Lustberg added.

1 MR. HEEREN: Yes, your Honor, and I'm going to focus
2 on that, but of course, if the Court has any questions about
3 my submission, I'm happy to address that as well.

4 I'm just going to take these points in order. As
5 Mr. Lustberg notes, this does occur some nine minutes after
6 the excerpt. I think it was the Court's own view that while
7 time is relevant, it's not dispositive when we last discussed
8 this. And so while I agree it's closer in time than Mr. Zhu's
9 statement, I think the fact of the matter remains that the
10 topic changed and there was a brief intervening discussion
11 between the two that makes it clear that we had moved on to a
12 different focus.

13 I disagree with counsel that the timing matters very
14 much about -- in terms of the analysis of backtracking, which
15 I think is sort of the core point here, right, and the core
16 point of *Williams*, which is even if a statement is directly
17 contradictory, and I'm not sure I agree that it is here, that
18 that is ordinary and doesn't necessarily mean it's necessary
19 to explain a statement being put in. It's just as likely that
20 a sophisticated defendant like Mr. McMahon, who is an
21 experienced former police officer, who has been -- I suspect
22 has been in arrest interviews, it was apparent to him that he
23 had made a mistake, and he tried to backtrack it. Made a
24 mistake in the sense of not being confusing, but making an
25 admission that was harmful to him. So I don't agree that the

1 timing matters on that.

2 But Mr. Lustberg's sort of core point, which he got
3 back to today, is that there's some ambiguity to the term
4 "prosecute," and the government just disagrees that there is
5 any ambiguity in this context. I certainly agree that
6 Mr. Lustberg is entitled to argue that the statement doesn't
7 mean what it says, and offer the alternative definitions, but
8 you don't need Mr. McMahon's other statements, which don't
9 clarify the term "prosecute" to make that argument. He makes
10 a different point.

11 And to the extent it is related, and I'm not sure
12 the government agrees, it's related in the sense that, at
13 best, it is confirming the point and explaining an alternative
14 basis for why he's not guilty of the crime. That's not what's
15 needed under the rule of completeness to avoid misleading.
16 That's just a different argument.

17 Again, the reference to cherry-picking, I just
18 briefly note that I do think it matters to the Court's
19 analysis that the government is submitting an uninterrupted
20 segment. We're not picking and choosing from different parts
21 of the interview. This is one uninterpreted seven-minute
22 section where it's clear -- with a clear beginning and ending
23 of the discussion. I do -- this might be a different scenario
24 if the government was taking several different points from
25 different parts, and the analysis would be different.

1 Finally, I guess we'll start from the -- we'll end
2 with the beginning, which is Mr. Lustberg says that the
3 statement -- that the primary statement that he focuses on so
4 they could prosecute him, "they" is also ambiguous. That's
5 not correct. So the question, which was a clear question, and
6 the beginning of the conversation, it's very clear that they
7 start here, the agent asks, based on -- I'm going to summarize
8 here, but he says essentially based on everything that we've
9 talked about, then he asks the question, was the goal to have
10 somebody returned to China on their own, and Mr. McMahon says,
11 yeah, I think he had mentioned to me that they were trying to
12 get him to come back to China so they could prosecute him.

13 The question was goal, and he makes very clear what
14 he understood the goal to be. The question was not who told
15 you, and that's not an issue in this portion of the statement.
16 Who told you is again a different topic on a different issue,
17 and I think that goes to the *Johnson* analysis, which is in the
18 scenario of the robbery where the Court permits a discussion
19 of the planning, but not a discussion of the execution of the
20 robbery. I think that's analogous to here. It's permissible
21 to let in the discussion of the goal, without letting in the
22 discussion of well, who told you, when did they tell you, what
23 were they doing, what was their employment.

24 So for all those reasons, as well as the other
25 reasons the government referenced in its letter, the

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1 government believes that its submission is complete. Nothing
2 else needs to be added. Happy to answer any questions the
3 Court may have.

4 THE COURT: All right. So I have given this
5 considerable thought. As I say, I wouldn't say it's clearcut,
6 but the more I looked at the statements that the government
7 seeks to offer and that excerpt, as well as the ones the
8 defense wanted to supplement with in the context of those as
9 well, it is pretty clear to me that the statement in which the
10 defendant Mr. McMahon says, prosecute is not ambiguous such
11 that other portions of the transcript or transcribed interview
12 ought to be included to clarify or to prevent any
13 misimpression about what he meant.

14 And I say this for several reasons. The term
15 "prosecute," especially when spoken by a veteran police
16 officer is not ambiguous, especially given the context in
17 which it was being discussed and will be offered. Just as
18 Mr. Heeren notes, the questions at that point were very
19 direct. And the defense has made much of the fact I think
20 legitimately that Mr. McMahon is a, the words were hero cop,
21 someone who -- and who is a veteran of the NYPD, and who
22 certainly knows what the word "prosecute" means, and he even
23 then further discusses this with the agents.

24 I'll also note that the section that the defense
25 wants to include almost reinforces that point. While it is

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1 true, and I'm looking at page 63 of the transcript, starting
2 at the top, the most important statement I know that the
3 defense wants to introduce is Mr. McMahon's statement that I
4 thought it was a civil case.

5 But then if you keep going down where he talks about
6 money being stolen, et cetera, he does say again, yeah, but
7 this is a criminal case in China, and then the agent says in
8 China, and McMahon says right. So reinforcing his
9 understanding that they, meaning the Chinese, I think is a
10 logical reading or at least he understood that the goal was to
11 repatriate Mr. -- or Mr. John Doe 1, so that he could be
12 prosecuted in China because there is a criminal case in China.

13 And so I think -- and he goes on to say, yeah, it
14 relates to embezzlement, money stolen from the company, which
15 in some ways is what he says at the very beginning of this
16 same passage. So to me it reinforces, if anything, that he
17 understood fully that this was a criminal case in China for
18 which he was being asked to help get Mr. John Doe 1 to go back
19 to face the consequences of, which is another phrase he uses
20 in the first part.

21 Then Mr. McMahon also further explains in the
22 excerpt the government intends to include that he understood
23 that they, i.e. the Chinese government had brought over the
24 father to get -- to persuade John Doe 1 to go back and pay the
25 money is part of what he says.

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1 And then there is a discussion about mentioning jail
2 time, and Mr. McMahon says, no, that was never discussed. But
3 bear in mind in that, again, I view that as reinforcing the
4 idea that he understood they were talking about a criminal
5 case because he doesn't say there well, no, I thought it was a
6 civil case so why would they discuss jail time.

7 And so to me, it's all consistent with what appears
8 to be a very clear statement by an officer, a former and
9 veteran police officer that what we're talking about is
10 prosecution, criminal prosecution. So for that reason, I
11 don't find that there's any ambiguity as to which any
12 additional statements need be offered to clarify, and I don't
13 think any misimpression would be left by permitting the
14 government to introduce what is an inculpatory statement and
15 not allowing the defense to introduce what is going to be
16 argued or would be argued is a flatly exculpatory statement
17 under the notion of completeness.

18 I'll remind everybody, of course, that as the Second
19 Circuit stated in *U.S. versus Williams*, that 2019 Second
20 Circuit case that the government relies on, a party cannot
21 circumvent the hearsay rule simply by invoking the doctrine of
22 completeness so as to render otherwise inadmissible evidence
23 admissible for its truth.

24 Now, Mr. Lustberg, I, of course, understand that it
25 is Mr. McMahon's defense that he didn't believe that he was

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1 acting for the Chinese government to repatriate someone for
2 purposes facing criminal prosecution, and obviously, there are
3 multiple parts of that defense, but the mere fact that that's
4 Mr. McMahon's defense, of course, does not make otherwise
5 inadmissible testimony admissible.

6 That being said, of course, I understand your
7 argument being that because there is this purported ambiguity
8 in the statements the government wants to offer, the rest that
9 you're proffering should be offered as well. But for the
10 reasons that I said just now, I don't agree with you.

11 The other fact I want to or context I want to touch
12 on is why I think the situation with Mr. McMahon is different
13 from that of Mr. Zhu. And I'm not going to focus so much on
14 the length of time, because quite honestly nine minutes or 45
15 minutes is probably enough to distance one statement made
16 during a single postarrest session from another, such that I
17 think the government has a reasonable argument that the
18 nine-minute gap and the intervening conversation and the
19 context in which the second statement arose is enough to make
20 it not a statement that should be introduced for purposes of
21 completeness. Because it doesn't really relate back to, in a
22 clarifying way, the first statement.

23 So whether it's nine minutes or 45 minutes, I think
24 the government has a decent argument to make that it really
25 isn't a statement that should be included for completeness.

1 So then the question is why is Zhu's situation
2 different when it was 45 minutes versus nine? And here what I
3 find is distinguishing between the two defendants and the
4 context is their backgrounds to a large extent and how the
5 conversations went generally or the interviews went generally.

6 With respect to Mr. Zhu, it's apparent from viewing
7 the entire postarrest interview that he is, of course, a
8 non-English speaker, trying to communicate through a
9 translator and who is clearly and patently unfamiliar with the
10 judicial process in the United States, unlike Mr. McMahon, who
11 obviously is, as I said before, someone quite familiar,
12 intimately familiar and directly knowledgeable about the
13 criminal justice system in the U.S. and defendant's rights
14 when they're being interviewed by law enforcement or after
15 they've been arrested and charged with a crime. Mr. Zhu is
16 floundering throughout his interview, it's clear, and to me,
17 his later statement, albeit made 45 minutes later, but that's
18 because I think there was a lot of colloquy in between just to
19 get him to understand what the situation was, and for him to
20 try to communicate in an intermittently frenetic way what he
21 thought the agents might want to hear or should know, but I
22 think to me his circumstances, given the attendant language
23 issues and his unfamiliarity with the whole process should
24 allow a more liberal consideration of statements made much
25 later that reflected what I said yesterday could be viewed as

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1 equivocation about what he knew himself. Because he says I
2 didn't know that, when before he stated more affirmatively
3 that he believed or knew about a particular person's
4 affiliation with the Chinese government.

5 Because of those circumstances and how the
6 conversation or interview unfolded, I believe that his
7 equivocation ought to have been included to, in some way,
8 clarify or maybe undercut the certitude that might be
9 attributed to his first statement. So I view the situation as
10 quite different.

11 To me, as I've said before, I don't think there was
12 any ambiguity about Mr. McMahon's statement that he believes
13 that the goal of the work that he was tasked with was to send
14 or cause Mr. John Doe 1 to go back to the U.S. -- sorry, go
15 back to China to face criminal prosecution, and the word
16 "prosecution" was a clear reference to a criminal matter.
17 So -- and that the people who wanted him to go back would then
18 be the government because prosecutions are brought by the
19 government. At least that would be a fair reading of a law
20 enforcement officer's statement in the United States who is
21 being interviewed by other law enforcement.

22 So my ruling is that the statements that are
23 proposed by the defense to be introduced under a notion of
24 completeness is denied. And so the statement that the
25 government has identified in their filing on May 27, 2023 as

1 Exhibit 1 or A, and it's docketed as 228-1, is what will be
2 admitted through the videotape, and I guess may be testified
3 to by the agent. I'm not sure how the government plans to
4 proceed. Okay. All right. So that's my ruling. You
5 obviously have your objection, Mr. Lustberg.

6 Now, let's address an issue about the transcripts.

7 MR. HEEREN: Your Honor, before we get the
8 transcripts, just for the record I would note, I believe
9 Mr. Zhu arrived in the middle of the argument. I would just
10 ask Mr. Tung to confirm that he had no objection to our
11 proceeding, the first part, given that it wasn't related to
12 his client.

13 THE COURT: So I'll note that Mr. Zhu unfortunately
14 did not arrive at 9 a.m. I did not notice when he entered,
15 but it might have been in the middle of Mr. Lustberg's or
16 Mr. Heeren's argument, but he was late.

17 Mr. Tung, do you have any objection to him not
18 having been here during the argument about Mr. McMahon's
19 postarrest statements?

20 MR. TUNG: No, your Honor, because it has very
21 little bearing on him.

22 THE COURT: Okay. Mr. Zhu, I just have to remind
23 you that you have to be on time every day because you
24 obviously put your lawyer in a difficult position of having to
25 waive your appearance when you're not here on time and

1 everyone else is.

2 All right. So now let's address this question about
3 the transcript. Mr. Goldberger, I understand that you're
4 refusing to pay your share of the daily transcript or
5 immediate transcript, I should say, that you're getting. You
6 can't do that. You have to pay the court reporters.

7 MR. GOLDBERGER: All right.

8 THE COURT: All right. I think we've resolved that.

9 All right. Mr. Heeren, did you want to say anything
10 else?

11 MR. HEEREN: Yes, your Honor. The Court had raised
12 a question about swearing in our interpreters and whether it
13 was necessary. I'm still not sure of the answer, but I
14 think -- we have both of them here. I think out of an
15 abundance of caution, we should.

16 THE COURT: Yes.

17 MR. HEEREN: And then just sort of separately I
18 would just ask the Court to -- we've obviously heard no
19 objection from defense counsel about these particular
20 interpreters or their interpretation. I just want to get
21 clear on the record that there has been, up to this point, no
22 objection from defense counsel.

23 THE COURT: Has there been any -- is there or was
24 there or has there ever been any objection to these
25 interpreters interpreting?

1 MS. WONG: No, your Honor, in fact, we use these
2 interpreters very frequently in this courthouse and in the
3 Southern District and the District of New Jersey, so there is
4 no objection.

5 THE COURT: So Mr. Tung, Mr. Lustberg?

6 MR. LUSTBERG: I have no idea.

7 THE COURT: Well, Mr. Tung might be the only
8 informed person. What do you think, Mr. Tung?

9 MR. TUNG: They are very good.

10 THE COURT: Okay. Thank you. So no objection
11 there. This is a perfect opportunity for me to also publicly
12 apologize to them for even questioning their translation of a
13 particular word at sidebar. So come forward and we'll swear
14 you in, post hoc and also going forward.

15 THE INTERPRETER: Good morning, your Honor.

16 THE COURT: Good morning. We have both Stephanie --

17 INTERPRETER WU: Nancy.

18 THE COURT: I keep doing that to you. Nancy, last
19 name?

20 INTERPRETER WU: Wu.

21 THE COURT: Wu, right. And?

22 INTERPRETER NG: Iching Ng.

23 THE COURT: Ng, N-G.

24 THE COURTROOM DEPUTY: Please raise your right hand.

25 (Interpreters sworn.)

1 INTERPRETER WU: Yes, I do.

2 INTERPRETER NG: Yes, I do.

3 THE COURTROOM DEPUTY: Can you individually state
4 your name for the record?

5 INTERPRETER WU: Nancy Wu, W-U. Good morning.

6 THE COURT: Good morning.

7 INTERPRETER NG: Iching Ng, which is I-C-H-I-N-G.
8 Last name is N-G.

9 THE COURT: Both of you are translating Mandarin to
10 English and vice-versa?

11 INTERPRETER WU: Yes. In some instance, it may be a
12 different dialect.

13 THE COURT: Are you translating other dialects as
14 well?

15 INTERPRETER WU: So far it has been Mandarin. I
16 might be using a different capacity.

17 MR. HEEREN: So, your Honor, just for clarity, we
18 expect one of our witnesses to speak primarily in Cantonese,
19 and so it's my understanding both interpreters speak both
20 Mandarin and Cantonese.

21 THE COURT: That's so impressive. Okay. So they're
22 translating both English to Mandarin and Cantonese and back
23 again. Okay.

24 And, again, I do want to apologize to you both for
25 even questioning your translation and to explain, A, my

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1 Chinese as I told you yesterday, is equivalent of a
2 two-year-old's, but B, more importantly, I was a little bit
3 concerned that some of the answers didn't make some -- didn't
4 make sense in a certain way when it comes to someone's memory
5 versus knowledge. And I just wanted to be sure that there
6 wasn't any potential interpretation of words used in Chinese,
7 whatever they were, although I remember what we discussed, but
8 I don't remember what the witnesses said that could have been
9 interpreted either as remember or I don't know. So my
10 apologies to you, again, for even questioning that.

11 Thanks, folks. 9:30, we'll see where our jury is.

12 Everyone take their nature break now so we can get
13 started.

14 (Recess.)

15 (Jury enters courtroom.)

16 THE COURTROOM DEPUTY: All rise.

17 THE COURT: Please be seated, everyone. Good
18 morning, ladies and gentlemen of the jury. It's good to see
19 you again. I hope you are all rested after yesterday. We are
20 going to resume now with the examination of Ms. Hwang.

21 So, Ms. Chen, take it away.

22 (The witness takes the stand.)

23 MS. CHEN: Thank you, your Honor.

24 May we please publish what's already in evidence as
25 Government Exhibit 807F, please. If we could go to page 18.

HWANG - DIRECT - MS. CHEN

1 (Exhibit published.)

2 **EUNGEE HWANG**, called as a witness, having been previously
3 first duly sworn/affirmed, was examined and testified further
4 as follows:

5 DIRECT EXAMINATION (Continued)

6 BY MS. CHEN:

7 Q Ms. Hwang, I believe yesterday we started reading this
8 chat but did not finish. Can you again just refresh for the
9 jury what this exhibit shows?

10 A This is the translated content that were sourced --

11 THE COURT: Hang on second. You have that -- is
12 that problematic? Are you guys having a problem hearing it?
13 Why don't we just use the regular mic.

14 THE COURTROOM DEPUTY: Let's try both first.

15 THE COURT: Speak a little louder.

16 MS. CHEN: I can ask the question again.

17 THE COURT: Let's do that.

18 BY MS. CHEN:

19 Q Ms. Hwang, what does this exhibit show?

20 A This is the continuation of a translation source that was
21 sourced from the WeChat contents, and the participants that
22 we're looking at are Blueallen, Allen Jin and Endlessjohnny,
23 Johnny Z.

24 Q Again, if you don't mind reading in blue. I'll read in
25 gray. If you don't mind starting at the top chat beginning on

HWANG - DIRECT - MS. CHEN

1 April 12, 2017 at 10:27 a.m.

2 A Delete all of our chat record after reading this WeChat
3 message. Something went wrong. Someone in the U.S. will be
4 looking for you. The sooner the better. Delete all the chat
5 record. Delete WeChat. You are just a tour guide.

6 Q Okay.

7 A Be careful of everything. If there is anything, use
8 another phone to call. Your cell phone may be monitored.
9 Let's talk after I come back.

10 Q Oh.

11 A Continuing on the same day.

12 Reply me in WeChat if anyone has contacted you.

13 A few days later on April 17, at 2:55 a.m., has
14 anyone called you after I left?

15 Q No.

16 A Are you still leading the tour groups these days?

17 Q There appears to be an attachment with a duration of two
18 minutes and 22 seconds.

19 MS. CHEN: May I please publish just for the witness
20 and counsel what's been premarked for identification as
21 Government Exhibit 811B?

22 (Exhibit published.)

23 Q If we could go to the second page.

24 Ms. Hwang, first, do you recognize this exhibit?

25 A I do.

HWANG - DIRECT - MS. CHEN

1 Q What is it?

2 A This is another translated document of contents that are
3 also sourced from WeChat.

4 Q And is Government Exhibit 811B a translation of WeChat
5 content extracted from Government Exhibit 801?

6 A It is.

7 MS. CHEN: May I now publish again just for the
8 witness what's been marked as Government Exhibit 811C?

9 Q Ms. Hwang, do you recognize this exhibit?

10 A I do.

11 Q What is it?

12 A Similarly to the previous exhibits, this is the
13 translated contents that we see in 811B also presented in a
14 conversation view.

15 Q And like the other exhibits, does this remove translator
16 notations and convert the time from UTC to Eastern time?

17 A Yes.

18 MS. CHEN: Your Honor, we move to admit Government
19 Exhibit 811C.

20 MR. LUSTBERG: No objection.

21 MS. WONG: No objection.

22 MR. TUNG: No objection.

23 THE COURT: Admitted. You may publish.

24 (Government Exhibit 811C, was received in evidence.)

25 (Exhibit published.)

HWANG - DIRECT - MS. CHEN

1 Q Now that the jury can see it. Ms. Hwang, can you again
2 just briefly explain what this shows?

3 A This is the English translated contents from WeChat, and
4 we see two participants, user Taotao and user Endlessjohnny.

5 Q If you don't mind again reading with me some of this
6 exhibit. I'll direct you precisely where to go. If you could
7 start at the top of the April 2nd, 2017, 1:36 a.m. If you
8 read in blue, I will read in gray.

9 A You have added Shui Yu Shan Feng as your WeChat contact.
10 Start chatting. Zhu.

11 Q That same day, brackets, XC booking successful, colon,
12 for Tu Lan T-U L-A-N. Zhu Feng, Z-H-U F-E-N-G. 4/2/17,
13 Ramada Plaza Hotel, Shanghai Pudong International Airport,
14 parentheses, with surprising discounts, ends parentheses. Two
15 luxury rooms, one night, total 2,310.00 yuan. Breakfast no
16 included. Cancelation or change to reservation not permitted.

17 Special notification. This reservation is made
18 through an agent. Please use the names of Tu Lan, T-U L-A-N,
19 and Zhu Feng, Z-H-U F-E-N-G for check-in. Hotel address,
20 number, No. 1100 Qihang, Q-I-H-A-N-G, Road, Pudong
21 International Airport near Haitian, H-A-I-T-I-A-N, Wu, W-U,
22 Road period. There appears to be a number after T.

23 And then it writes, please click mobile application.
24 There appears to be a hyperlink for more information about
25 this reservation.

HWANG - DIRECT - MS. CHEN

1 After that, there is a customer service number
2 listed.

3 Prosecutor Tu, after arriving in Shanghai airport in
4 the afternoon, there is a hotel shuttle at door number nine in
5 terminal T1. White Ramada bus. Check in at the hotel front
6 desk. Exclamation point. Hotel telephone. And then there is
7 a number listed. If we can go to the next page.

8 A A few days later on April 4th, at 7:21 p.m. 95
9 International Boulevard, B-L-V-D, Newark Embassy Hotel.

10 Q That same day, brackets, okay. And two days later on
11 April 6, 2017, if walking the dog, then drive the car away.
12 That same day, there is an attachment. That same day, there
13 is an attachment.

14 I just reserved your hotel in New York. Check-in
15 4/6/2017. Checkout 4/9/2017. If we can go to page 4.

16 A Same day, April 6 starting at 9:43 a.m. No, I will do
17 some search for you.

18 Q So I think that's page 3.

19 A At 9:49 a.m. Okay, Mike has some leads. I am having a
20 three-way call with them. I will look it up for you later.

21 The user then sends an attachment of what appears to
22 be a photo of a woman.

23 Q If we can go now to page 6. This is now April 7th, 2017,
24 at 3:50 a.m.

25 Okay. Thanks. Are you not asleep?

HWANG - DIRECT - MS. CHEN

1 A I was sleeping. Hu, H-U, messaged me to make
2 arrangements for tomorrow, so I woke up. They had a meeting
3 and said we don't have to worry about Xu's, X-U, father. Ask
4 you and the doctor to return as soon as possible to avoid any
5 risk.

6 Q In brackets, chuckle. Okay. Who told you this?

7 A Decided in meeting just now. Hu.

8 Q Through WeChat?

9 A Yes. You'd better make a contact through We Chat. I
10 will come and discuss with you in the morning.

11 Q I was going to contact him. You tell him to buy tickets
12 for us immediately, return trip. If time is tight, I can go
13 to Canada and then return.

14 If we can go to the next page.

15 Suggest you leave with us together. Go back and
16 check out the situation first, then return to U.S.

17 A They won't allow, saying there are things need to be
18 completed. Yes, this is what I'm thinking too.

19 Q You can call Director Xiao, X-I-A-O, to talk about this
20 as the thing can be done by other people after you go back.
21 You can contact Director Xiao right now.

22 Next page.

23 A Okay.

24 Q They still want me to stay behind since there are many
25 things on MC's end. We need to follow up.

HWANG - DIRECT - MS. CHEN

1 A So Prosecutor Tu, please contact Li Feng, F-E-N-G, as
2 soon as possible about changing the ticket. Tell me the time.
3 Then I will make arrangement for you guys to leave first.

4 Q Okay. CA990. April 7, parentheses, Friday, New York
5 JFK-Beijing PEK1250, 1420 plus one. CA8212. April 8,
6 parentheses, Saturday, Beijing, PEK-Wuhan, W-U-H, 1925, 2145.

7 Me first, then the doctor.

8 We can go to the next page.

9 A Continuing on the same day.

10 Okay.

11 Q Airport is JFK. How long is the drive?

12 A Need to leave by 9:30.

13 Q What time should we leave?

14 A What is the doctor's flight?

15 Q UA089 April 8th, parentheses, Saturday, Newark
16 EWR-Beijing PEK1145, 1335 plus one.

17 Should be this flight.

18 When does she need to leave?

19 A 8:30 in the morning.

20 Q Next page.

21 Tomorrow morning?

22 A Wrong, 8 o'clock.

23 The day after tomorrow. Hers is on Saturday.

24 Q What day is today?

25 A Friday.

HWANG - DIRECT - MS. CHEN

1 Hers is tomorrow. I misspoke.

2 Q Today is Friday. Isn't tomorrow Saturday?

3 A E-N.

4 Why not let her leave Friday night? Cathay Pacific
5 has an evening flight to Wuhan from JFK.

6 Q If we could go to page 14. Beginning with the text on
7 April 7, 2017, at 4:38 a.m.

8 Great. Thank you for your hard work.

9 A You are welcome. Prosecutor Tu, how long are you going
10 to buy -- I'm sorry. How are you going to buy the bags if you
11 leave on this flight?

12 Those two stores will not open until 11 o'clock.

13 Q Can't buy now.

14 A Then what to do?

15 Q Can't do anything about it. Got to leave first. Once
16 I'm back, you all will be safe. When I am back, I will go to
17 his home first. Once they see me, nothing more will happen.

18 Next page.

19 A Continuing on the same day.

20 If I pick you up in the morning, there should be
21 enough time to take you to the Statute of Liberty and take
22 some photos.

23 We just need to start earlier, but it will be the
24 rush hour when I come.

25 I also think the doctor can stay for another few

HWANG - DIRECT - MS. CHEN

1 days. You talk to the doctor. If necessary, I can show her
2 around for a few days.

3 MC cannot start tracking until Monday.

4 Q If we can go to page 18. Beginning with the text
5 April 7, 2017, at 5:29 a.m.

6 Electronic passenger ticket itinerary.

7 Airline record number PXTRMZ.

8 Reservation record number HWW049. Passenger name,
9 Tu, T-U/Lan, L-A-N.

10 Ticket number, and there appears to be a number
11 identification code E85012066. Got it.

12 Then there's an image sent, which appears to be
13 flight information from a JFK flight and then a Guangzhou to
14 Wuhan flight.

15 Go to the next page.

16 A Continuing on the same day, these are -- a photo
17 attachment of what appears to be many cars on the road.

18 Then sends the following message, it may need
19 another half an hour.

20 (Continued on the next page.)
21
22
23
24
25

HWANG - DIRECT - MS. CHEN

1 DIRECT EXAMINATION (Continued)

2 MS. CHEN: And go to the next page.

3 Okay.

4 A The user sends an attachment that you see the screen
5 capture of the WeChat conversation.

6 MS. CHEN: Go to the next page.

7 Q This is at April 8th, 2017, 11:36 a.m.

8 I am back in Wuhan. How are you guys doing?

9 A I saw the doctor off this morning. I took her out
10 yesterday whole day.

11 Q You worked hard, exclamation point.

12 When you have a moment, please help me look for the
13 bag I posted. Thanks, exclamation point.

14 A Okay. No problem. Again, I am moving to another hotel
15 today. I will go and look later.

16 Prosecutor Tu, this morning, would you please
17 discuss how much longer do I need to work so that I can make
18 arrangements.

19 MS. CHEN: Go to the next page. That same day.

20 Q Today's our day off. It is Sunday early morning. And
21 Xiao, X-I-A-O, told me he would go to Beijing today and come
22 back on Wednesday. Likely need to wait until he comes back.
23 What do you think? If you have any thoughts or requests, I
24 can help you convey them and find some ways to make it easier
25 for you?

HWANG - DIRECT - MS. CHEN

1 In addition, I have not had the time to buy things
2 for Xiao, X-I-A-O. Buy one for me if you see anything
3 appropriate. Since he just came here, it is not easy to pick.
4 The price is better to be in the thousands. If possible, buy
5 one in your name and buy one in my name.

6 And then in brackets fight, fight, fight.

7 A In the thousands in U.S. dollars or RMB?

8 Q Should be RMB. Brackets, chuckle.

9 A That's fine.

10 I'm going to take a look at your bag -- at the bag
11 you want tonight.

12 MS. CHEN: Go to the next page.

13 Q Okay. In U.S. dollar, then it is about a thousand
14 dollars.

15 A Seems like your bag will cost several thousand dollars.

16 Q Then you make the decision. If you can buy the logo,
17 then just buy the logo. If they must go together, then buy
18 both. Better send me a WeChat message before making the
19 purchase and let me look at the price. Thanks, exclamation
20 point.

21 Is it convenient for you to send me the information
22 sent to Hu Ji again?

23 A The following day on April 9th.

24 Sure.

25 Give me the email. I will send it.

HWANG - DIRECT - MS. CHEN

1 MS. CHEN: Next page.

2 Q Same day, on April 9th.

3 Is it okay to send to the QQ mailbox?

4 A Okay.

5 Q 1744859395, Feng, F-E-N-G, Guo, G-U-O, Wu, W-U, Hen,
6 H-E-N.

7 A 1744859395, at symbol, QQ.com.

8 Q Yes.

9 Did Hu Ji say the house is under the company of Liu
10 Yan's name?

11 A Yes.

12 Q Tell Mike that he still needs to help find Xu's, X-U's,
13 father at Liu, L-I-U, Yan's place or at Xu Jins. Real time
14 changes. Also, do you need to leave New York.

15 Next page.

16 A This is on the same day.

17 I'm just waiting for your arrangement. I myself
18 have nothing else to do in New York.

19 Q You need to confirm that Mike can execute according to
20 our requirements and take a look at my bag. Or take care of
21 your own business first. I asked Hu Ji what he was thinking.
22 He said you could deal with your own business. But this is
23 only his opinion. I guess the top leaders may not think this
24 way. You do not need to say too much, if you need to do
25 something, then do it. I can coordinate with Hu Ji if there's

HWANG - DIRECT - MS. CHEN

1 any problem. Return to New York when needed.

2 A I sent my stuff to you. It will take some time to
3 receive.

4 Q Okay.

5 A Five in total.

6 Q Got it.

7 Next page.

8 A On April 9th.

9 I'd better stay in New York. I don't have anything
10 to do for myself. When this is it done, it will be about time
11 that I come back.

12 Q Good. Xu's status is key. In the end, need to bring him
13 back, also need to ask him to persuade Xu, so the time is not
14 under control.

15 A So besides monitoring MC, what else do I need to do.

16 Q Mainly to learn about Xu Jin's status through Mike.
17 Next, see if Xu's father is helping at all. For example, see
18 whether there is any opportunity to go and stay at Xu Jin's
19 house, whether there's any chance to persuade Xu Jin. See if
20 he has any chance to work anything out. Then decide based on
21 his situation, since the main purpose is to let him persuade
22 Xu Jin to turn himself in.

23 Next page.

24 A Continuing that same day.

25 That's fine. I will make plans accordingly.

HWANG - DIRECT - MS. CHEN

1 Q Okay.

2 MS. CHEN: We can stop here and go now to page 33.

3 Q Ms. Hwang, if you don't mind starting to read at the blue
4 text on April 9th, 2017 at 8:37 p.m.

5 A USD 435, dot, 00 after tax. No need, Prosecutor Tu. It
6 looks like that Hu wanted to ask the boss how to do next
7 week's work.

8 Is Dr. Li back in Wuhan, question mark. I have not
9 sent her the pictures yet.

10 I took her out the last day. Her mood seemed to be
11 better.

12 Q Then on April 10th, 2017 at 8:39 a.m.

13 Already back.

14 Why don't you send them to me.

15 MS. CHEN: If we can go to page 39.

16 And this is now April 9th, 2017, 8:40 p.m.

17 Q Did you tell Hu, H-U, that I still want to confirm Xu's
18 father's status?

19 A It seems that he has reported to Xiao, X-I-A-O, already.
20 I arranged to have MC to stake out there Monday morning.

21 The thing is that the money I've is only enough for
22 MC to stake out there for two days.

23 He said he would discuss it with the boss.

24 Q Okay.

25 Next page.

HWANG - DIRECT - MS. CHEN

1 A Continuing on the same day.

2 Seems like they want to send the money over and keep
3 following up. Don't know anything at this time.

4 Q Okay.

5 A So Prosecutor Tu, I will wait for word from you after
6 your meeting today, since this is related to how I do this
7 week's job.

8 Q Xiao, X-I-A-O, is in Beijing. Hu is with him. I guess
9 they will let Hu talk to you.

10 A Okay.

11 Q You give me your account and I will wire some to you
12 first.

13 Next page.

14 A Continuing on that same day.

15 Prosecutor Tu, the way of sending the money takes at
16 least a week. It is too trouble; isn't it.

17 Q Then which way is more convenient in your opinion?

18 A That \$400 will be of little use, Prosecutor Tu. Hu said
19 he would work something out today for more funding. They need
20 to send extra money for the investigation and report.

21 Let's talk about it when I come back.

22 Q Okay, let's keep in touch.

23 A Okay, Prosecutor Tu, whose order should I take for now
24 while I'm here?

25 Q The next page. Same day.

HWANG - DIRECT - MS. CHEN

1 You communicate with me and Hu. I will go to the
2 Commission for Discipline Inspection this afternoon. I will
3 contact you afterwards.

4 A Okay.

5 Q The next day, April 10th.

6 It is possible to send more people over there. Hu
7 Ji will talk to you once it is confirmed. You don't need to
8 ask for now.

9 Then April 11th.

10 Are you up?

11 A I am up.

12 Q Next page.

13 A It was confirmed yesterday that I'll be back on the 12th.

14 Q Okay.

15 What date is it at your place?

16 A Is my return flight UA086?

17 Right now, it is the morning of the 11th.

18 Q I do not know your flight yet. Do you need my help to
19 confirm it for you, question mark?

20 Next page.

21 A Okay, please find out for me.

22 Q UA086, April 12, New York -- I'm sorry, New York, EWR,
23 Shanghai Pudong PVG 1045 1345.

24 UA086.

25 A Okay, what is the flight from Shanghai to Wuhan?

HWANG - DIRECT - MS. CHEN

1 Q Do you need to buy anything today?

2 A Buy what?

3 Q Bring something back for Xiao, X-I-A-O, and Hu Ji just to
4 show our appreciation.

5 MS. CHEN: We can go to page 52.

6 I'm starting at the bottom text at April 11th, 2017,
7 7:57 p.m.

8 1, period, Zhu, Z-H-U, slash, Feng, F-E-N-G.

9 2, period, CZ3580 April 13th Shanghai Pudong-Wuhan
10 1650 1855.

11 Price 860 Yuan tax included, slash, person.

12 And go to the next slide.

13 And on April 11th.

14 Remember to bring back the binoculars.

15 A Will do.

16 Q Now on April 12th.

17 Answer me after you wake up.

18 A Just got out of bed.

19 Q What time do you leave for the airport?

20 A Now.

21 Q Based on the information received, Xu's father has
22 obtained the boarding pass. He will return on the same flight
23 as yours.

24 Next page.

25 A The same day.

HWANG - DIRECT - MS. CHEN

1 Is there anything I need to pay attention to?

2 Q Director Xiao, X-I-A-O's, opinion is to ignore him. But
3 he is an 83-year-old man after all, I still think you can
4 treat him with good intention. Find him after airport
5 security. He should be alone. Don't tell him your name, just
6 talk to him as travel agency employee. Ask him to make a
7 phone call to me or home, let us know his status and tell us
8 why he did not contact us. Ask him if he has the ticket from
9 Shanghai to Wuhan. If he does, help him board the plane and
10 tell me so I can arrange to pick him up in Wuhan. If he
11 doesn't, ask him to contact me, so that I have a reason to
12 contact the travel agency to purchase the return ticket for
13 him. I talked to the travel agency already to reserve a seat
14 on the same flight as yours but Director Xiao, X-I-A-O, is not
15 happy about him not contacting home after arriving at the
16 U.S., so he said not to take care of him.

17 MS. CHEN: You can go to page 57.

18 Starting on April 12th, 2017 at 6:56 a.m.

19 Q Just say you are from the travel agency. Don't give your
20 name. He won't contact them after coming back. I know this
21 for sure because he knows their home is under surveillance.
22 Didn't he not make any phone calls this time when he was
23 there?

24 He will not contact them after leaving. He won't
25 come to the U.S. again. You can be assured. His health

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1 condition will not allow it.

2 What do you think?

3 A Okay, I'll find ways when I get there.

4 Now start driving.

5 Q Next page.

6 Good. Thanks for your hard work, exclamation point.

7 After arriving at the airport, send me WeChat message any
8 time.

9 A Arrived at the airport.

10 Q Good.

11 Did you see?

12 Is it possible to confirm he's boarded the plane?

13 A Didn't see.

14 I am at the gate.

15 Q Next page.

16 Then it is possible he didn't board the plane. Xu's
17 father may not want to go back. You handle it accordingly.

18 Thanks for your hard work, exclamation point.

19 Seat number 34F, but do not know if he boarded or
20 not.

21 Already boarded the plane. Please meet him as soon
22 as possible.

23 Reply to me once you made contact.

24 A He is in his seat. I am using the in-flight WiFi.

25 Q Okay. Next page.

HWANG - DIRECT - MS. CHEN

1 A Asleep now.

2 The plane will land at 1:00. Anything you want me
3 to do, question mark?

4 Q See if you can say hello to him?

5 Okay. Do whatever you think is fine.

6 A What is his flight going back to Wuhan?

7 Q Can you ask him if he has booked a flight for going back
8 to Wuhan? If he hasn't, I will arrange for him to fly back to
9 Wuhan with you on the same flight. Also, do you have anyone
10 to pick you up after you arrive in Wuhan? If not, I can
11 arrange someone to pick you both up.

12 Next page.

13 A My cousin will drive his car to pick me up.

14 I'll ask him in a moment. He is asleep now.

15 Prosecutor Tu, why is there such a coincidence that
16 I am on the same flight with him?

17 Q Good.

18 Next page.

19 Appears to be an attachment.

20 A No ticket. I asked. No one to pick him up either.

21 Q You ask him if it is okay for him to come back with you.

22 Next page.

23 A No ticket. No one to pick him up. It was Liu Yan who
24 took him to the airport.

25 Q I will purchase a ticket of the same flight as yours for

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1 him. You can pick up the ticket with him at the airport and
2 accompany him back. I will ask Dr. Li to meet at you at the
3 airport in Wuhan and you can hand him to Dr. Li in Wuhan.

4 Thank you for your hard work, exclamation point.

5 Next page.

6 And there appears to be a screenshot with the name
7 Li, L-I, Minjun, M-I-N-J-U-N, with a cell phone.

8 Next page.

9 You should have the doctor's phone number, right?

10 Send it to you to be on the Xu side.

11 Flight booked. Same flight as yours.

12 You ask the old man why he did not contact anyone at
13 home or the doctor. He came back on his own like this. Ask
14 him why he didn't let anyone know.

15 7841374064557, ticket number.

16 CZ3580 April 13th, parentheses, Thursday, Shanghai
17 Pudong PVG, dash, Wuhan WUH 1650 1855.

18 Next page.

19 A Continuing on April 13th.

20 Prosecutor Tu, you should check names of the flight
21 crew. Xu's father was very hostile to me and he was convinced
22 that I was one of your people and asked me again and again how
23 I knew his location and travel plan, and talk to the flight
24 attendants repeatedly.

25 Flight attendants forbade me from talking to him. I

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1 feel there's an informant on this flight.

2 Q Oh. Got it. Then you don't need to take care of him.

3 Leave the car by yourself.

4 Next page.

5 A You might want to check the names of ground staff.

6 Normally, flight attendants will not prohibit communication
7 among passengers.

8 I'm going to land soon.

9 Q Then you don't need to take care of him. Delete all the
10 chats. You leave him on your own and let him take care of
11 himself.

12 Okay.

13 You go your way. Ignore her. It was a coincidence
14 when you ran into him.

15 MS. CHEN: You can take down the exhibit.

16 May I publish for the witness and counsel only
17 what's been premarked as Government Exhibit 317.

18 THE COURT: Okay.

19 (Exhibit published to the witness.)

20 Q Ms. Hwang, do you see this exhibit?

21 A I do.

22 Q And do you recognize it?

23 A I do.

24 Q And what is this?

25 A This is the second phone summary chart that I created.

HWANG - DIRECT - MS. CHEN

1 Q And to create this, did you rely on Government
2 Exhibits 302A, 303A, 305A?

3 A I did.

4 MS. CHEN: May we publish now what is admitted in
5 evidence as Government Exhibit 201, it's a stipulation.

6 On page 1, paragraphs 2 and 3.

7 (Exhibit published.)

8 MS. CHEN: Paragraph 2 reads: Government
9 Exhibit 302 consists of true and accurate copies of telephone
10 records obtained from T-Mobile U.S. Inc., which records
11 include toll records and cell tower location information
12 relating to a cellular telephone assigned number
13 (917) 348-5950.

14 Paragraph 3 reads: Government Exhibit 303 consists
15 of true and accurate copies of telephone records obtained from
16 T-Mobile U.S. Inc., which record include toll records and cell
17 tower location information relating to a cellular telephone
18 assigned number (917) 348-9230.

19 If we can go to page 2 paragraph 5.

20 Paragraph 5 reads: Government Exhibit 305 consists
21 of true and accurate copies of telephone records obtained from
22 Verizon Wireless, which records include toll records and cell
23 tower location information relating to a cellular telephone
24 assigned number (914) 450-9169.

25 Government Exhibit 305A is a true and accurate copy

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1 of subscriber information from Government Exhibit 305.

2 Q And, Ms. Hwang, are Government Exhibits 302A a subpart of
3 Government Exhibit 302, and 303A a subpart of Government
4 Exhibit 303?

5 A They are.

6 MS. CHEN: Going back to Government Exhibit 317,
7 just for the witness.

8 (Exhibit published to the witness.)

9 Q Ms. Hwang, does Government Exhibit 317 fairly and
10 accurately summarize the information included in Government
11 Exhibit 302A, 303A, and 305?

12 A It does.

13 MS. CHEN: Your Honor, we'd move into evidence
14 Government Exhibit 317.

15 MR. LUSTBERG: No objection.

16 MS. WONG: No objection.

17 MR. TUNG: No objection.

18 THE COURT: Admitted. You may publish.

19 (Government Exhibit 317, was received in evidence.)

20 (Exhibit published.)

21 MS. CHEN: Can we zoom in on the top title, please.

22 Q Ms. Hwang, I note for the jury, what does this exhibit
23 show?

24 A Similar to the first phone summary chart, it's only
25 focusing on voice call.

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1 And in the second chart, we are focused on a
2 specific period, from April 5th, 2017 through April 12th,
3 2017.

4 MS. CHEN: If we can zoom out.

5 Q And, again, briefly, what are the boxes with party name,
6 party number, and then on the right, the box with "key" mean?

7 A The name of the caller target name, or the names
8 associated with the phone numbers that we see on the right, as
9 well as their respective callers that are consistent
10 throughout the summary chart.

11 And then in the key section, we see "CF," which
12 stands for call forwarding.

13 And you can see CF in some of the incoming and both
14 outgoing rows under the column labeled "direction".

15 Q I'm sorry, just to be clear, do you see where the second
16 column it says "time"?

17 A I do.

18 Q What time zone is this?

19 A That looks like local time, Eastern Time.

20 MS. CHEN: If we can take this exhibit down.

21 Next, please publish, just for then witness and
22 counsel, what's been premarked as Government Exhibit 318.

23 (Exhibit published to the witness.)

24 Q Ms. Hwang, do you recognize this exhibit?

25 A I do.

HWANG - DIRECT - MS. CHEN

1 Q And what is it?

2 A This is the frequency analysis that I had conducted. And
3 based on the frequency analysis, I then took the data and
4 created a bar chart summary chart to present in a visual
5 format.

6 Q And in doing so, did you rely on data from Government
7 Exhibit 302A?

8 A I did.

9 Q And does Government Exhibit 317 -- I'm sorry, 318 fairly
10 accurately summarize the information included in Government
11 Exhibit 302A?

12 A It does.

13 MS. CHEN: Your Honor, we offer into evidence
14 Government Exhibit 318.

15 MR. LUSTBERG: No objection.

16 MS. WONG: No objection.

17 MR. TUNG: No objection.

18 THE COURT: It's admitted. You may publish.

19 (Government Exhibit 318, was received in evidence.)

20 (Exhibit published.)

21 Q Ms. Hwang, again, can you explain to the jury what this
22 is?

23 A This is a bar chart displaying the SMS frequency
24 analysis.

25 SMS stands for short message service, which is

HWANG - DIRECT - MS. CHEN

1 simply text message. And this was filtered between outgoing
2 and incoming SMS communications between the phone number
3 ending in 5950, associated with Zhu Feng, and the phone number
4 ending in 9169, associated with McMahon.

5 The source records for this analysis was from the
6 records of the phone number ending in 5950.

7 Q And how many messages were sent in this time period
8 between these two phones?

9 A Between the period of April 4th, 2017 to April 12th, 2017
10 there were a total of 356 incoming and outgoing SMS messages.

11 Q And can you briefly, at a high level, walk through what
12 each access means?

13 A So the Y axis that we see on the left-hand side, that is
14 the number of SMS. The X axis on the bottom of the page,
15 those reflect the dates from April 4th through April 12th,
16 2017.

17 Q Would you please walk the jury through the number of
18 messages exchanged on each day?

19 A On April 4th, there's a total of 15 SMS messages.

20 On April 5th, there's a total of 26 messages.

21 April 6th, there's a total of 102 messages.

22 April 7th, there's a total of 23 messages.

23 April 8th, there's a total of 14 messages.

24 On April 9th, there's a total of 56 messages.

25 On April 10th, there's a total of 84 messages.

HWANG - DIRECT - MS. CHEN

1 On April 11th, there's a total of 36 messages.

2 On April 12th, there are zero messages.

3 Q Without any knowledge of the investigation of this case,
4 what does this chart show you?

5 A Just simply based on the analysis and what we can observe
6 visually, there is an increase in messages between April 4th
7 through April 6th.

8 Then from April 6th through April 8th, there's a
9 decrease in messages.

10 Then from April 8th through April 10th, we see
11 another increase.

12 Then from April 10th leading to April 12th, we see
13 another decrease.

14 MS. CHEN: And may I publish -- sorry, can we go
15 back to Government Exhibit 317, please.

16 Q And, Ms. Hwang, I apologize, I forgot to ask. Can you
17 explain to the jury just what the target name and target
18 number is in this chart?

19 A The target name and the target is the party name and the
20 party number that we see on the top left-hand key. And that
21 reflects the source records that we see in that specific row.

22 Q Okay. So in "direction" in that column, if we see
23 "outgoing," would it to be right that the target is making an
24 outgoing call?

25 A Correct.

HWANG - CROSS - MR. LUSTBERG

1 Q And if we see "incoming," that target phone number is
2 receiving a call?

3 A Correct.

4 MS. CHEN: May I have one moment, Your Honor?

5 THE COURT: Yes.

6 (Pause in the proceedings.)

7 MS. CHEN: No further questions, Your Honor.

8 THE COURT: All right. Thank you, Ms. Chen.

9 Any cross-examination?

10 CROSS-EXAMINATION

11 BY MR. LUSTBERG:

12 Q Good morning, Ms. Hwang.

13 A Good morning.

14 MR. LUSTBERG: I just want to let my colleague,
15 Ms. Conti, access the exhibits, but I want to start with
16 Exhibit 315, which is in evidence. We've seen this before.

17 And this in evidence, so you can publish.

18 Sorry for the delay.

19 (Exhibit published.)

20 Q You recall testifying about this exhibit, correct?

21 A I do.

22 Q And this was an exhibit you created that had the party
23 names and the party numbers for various people, right?

24 A Correct.

25 Q And those various names and numbers were the numbers that

HWANG - CROSS - MR. LUSTBERG

1 you analyzed; am I right?

2 A Yes.

3 Q Did you analyze any other names or numbers that are not
4 on this list?

5 A I did not.

6 Q Okay. And how was this -- how did you know which names
7 and numbers to analyze?

8 A I was provided the phone numbers.

9 Q You were provided by the U.S. Attorney's Office with what
10 numbers to focus on?

11 A Correct.

12 Q Okay.

13 So let me show an excerpt of Exhibit 314.

14 Exhibit 314 is in evidence.

15 (Exhibit published.)

16 MR. LUSTBERG: Your Honor, do I have to request
17 permission to publish an exhibit that's already in evidence?

18 THE COURT: No.

19 MR. LUSTBERG: Okay.

20 THE COURTROOM DEPUTY: Just make sure to announce
21 whether it's in evidence.

22 MR. LUSTBERG: Yes, Exhibit 314 is in evidence.

23 Q Okay. I want to show you a couple of numbers, and just
24 make sure that these were not numbers that you were asked to
25 analyze.

HWANG - CROSS - MR. LUSTBERG

1 So let's first talk -- look at the number associated
2 with the Millburn Police Department.

3 MS. CHEN: Objection, Your Honor.

4 THE COURT: Overruled.

5 These are all in evidence, correct?

6 MS. CHEN: Your Honor, I think -- the objection is
7 to the attribution of phone number, which is not.

8 THE COURT: All right, I can't read. Please zoom
9 in.

10 Okay, so sustained. There isn't any indication on
11 the document as to the party whose phone number is listed
12 there.

13 MR. LUSTBERG: Well, let me ask the witness.

14 THE COURT: Sorry, disregard the question referring
15 to the police department, ladies and gentlemen.

16 MR. LUSTBERG: If you blow up that number.

17 Q So I'm looking at the number (973)564-7001.

18 Do you have any idea what that number is?

19 A I do not.

20 Q And you were not asked to look to see how many calls
21 there were to or from that number?

22 A No.

23 Q Okay.

24 And let's look at the another number, one other
25 number, which I'm not going to describe for the reasons you've

HWANG - CROSS - MR. LUSTBERG

1 said.

2 That would indicate Warren, New Jersey.

3 THE COURT: You want to indicate the date and time
4 so the record is clear?

5 Q So I see two calls at 9:34 and 9:35 a.m. on April 10th to
6 the number (908)753-1146 in Warren, New Jersey.

7 Do you have any idea what that number is?

8 A I do not.

9 Q You were not asked to analyze any phone calls to or from
10 that number?

11 A No.

12 Q Okay.

13 MR. LUSTBERG: We can take that down.

14 We've had a good amount of discussion of
15 Exhibits 316 and 317.

16 If you could -- let's just put up 316 as an example.

17 THE COURTROOM DEPUTY: Previously admitted?

18 MR. LUSTBERG: Yes, I apologize, this is in
19 evidence.

20 (Exhibit published.)

21 Q Okay. If I understand correctly, these exhibits about
22 which you've testified, indicate that phone calls are placed
23 between the two parties that are indicated on the exhibits.

24 So, for example, if you look at the very first line
25 of Exhibit 316, it shows a phone call between McMahon and

HWANG - CROSS - MR. LUSTBERG

1 Gallowitz, right?

2 A Yes.

3 Q Okay. Of course there's nothing on these exhibits, 316
4 and 317, that would indicate what was said in those phone
5 calls, correct?

6 A No. The phone records will simply indicate the date,
7 time, duration, outgoing, incoming, whether the call had
8 failed, or whether the call was successful.

9 Q I understand.

10 Let's look -- and I just want to understand the
11 duration that you just mentioned.

12 Let's go, and if we can blow up the second line,
13 which is a phone call on 9/15/2016 at 1:23 p.m. Okay.

14 That says duration, one minute; am I right?

15 A Yes.

16 Q But that could be any duration under a minute, right? I
17 don't see any duration, and tell me why this is, of an amount
18 of seconds below a minute?

19 A That's correct.

20 The source for this row in this call came from the
21 archive records, which they both provide slightly more data
22 information than what you would see on the toll records. And
23 so in terms of duration, what's only provided is the minute
24 and we're not provided the minute and the seconds.

25 Q So am I right that this phone call could have been as

HWANG - CROSS - MR. LUSTBERG

1 little as one second?

2 A We can't say for sure, because what the record provided
3 only says one minute.

4 Q But my question is, since this is an area that you're
5 familiar with, when it says one minute, what's the actual
6 range of how long that phone call could have been?

7 A I'm not sure, specifically.

8 Q So you don't know whether that was anywhere between one
9 second and one minute, or one second and one minute and 59
10 seconds, you have no idea how long that call was?

11 A No, I can't say.

12 Q The reason that you mentioned Verizon is because
13 Mr. McMahon had a Verizon account, correct?

14 A The service provider for the phone number ending in 9169.

15 Q Right. The service provider for 9169, what you know, is
16 the party McMahon?

17 A Right.

18 Q Is 9169, is Verizon, right?

19 A Yes.

20 Q And it's not WeChat, right?

21 A The service provider is Verizon.

22 Q Right.

23 Do you recall from your analysis of records
24 regarding Mr. McMahon whether he used a service like WeChat or
25 Signal or WhatsApp that's an encrypted service?

HWANG - CROSS - MR. LUSTBERG

1 A To obtain that information, that wouldn't come from the
2 phone records itself, and I was only analyzing and reviewing
3 phone records.

4 Q So you don't know?

5 A I do not.

6 MR. LUSTBERG: Couple of other questions, or series
7 of questions.

8 If we can turn to exhibit, I think it's 318, which
9 is in evidence, the bar chart that you just talked about a few
10 moments ago.

11 (Exhibit published.)

12 Q I just want to make sure I understand what was being
13 measured here in terms of numbers of SMSs or texts.

14 So this was -- what you did was count up, am I
15 right, the numbers of texts on any given day between these two
16 parties, right?

17 A Correct.

18 Q So if there was a conversation, and we've seen a number
19 of them this morning, where a person was -- made a few points
20 at the same time but in separate texts, that would mean, those
21 would each be separate for purposes of counting up, right?

22 A If they -- correct, if they presented in separate rows,
23 counted as separate messages, that's how it appeared in the
24 records, then they would appear as individual text messages.

25 Q Just so I, to make sure I understand.

HWANG - CROSS - MR. LUSTBERG

1 So if you and I were texting, and I said, Good
2 morning, and then that was the end of that text, and the next
3 text said, How are you doing today? That would count as two
4 separate texts, if it was in two separate SMS messages, right?

5 A Correct. That's what we expect to see in the records.

6 Q Pardon me?

7 A Yes, correct, that's what we would expect to see in the
8 records.

9 Q And this doesn't account, right, for whether -- for how
10 many of these were texts that said something like, Okay, just
11 a word like, Okay, one word, right? That's the same as a
12 lengthy message; isn't it?

13 A Correct.

14 Q So this analysis is just literally how many text messages
15 are regardless of what the substance is; am I right?

16 A Correct.

17 Q And there were no messages on April 12th?

18 A There were none.

19 Q And do you know whether there are any messages after
20 April 12th?

21 A I believe the records only went up to the period of
22 April 12th.

23 Q When you say the records only went up to the period of
24 April 12th, the records that you were provided; am I right?

25 A Correct.

HWANG - CROSS - MR. LUSTBERG

1 Q You didn't look at -- you're saying you didn't look at
2 any records after April 12th; am I right?

3 A What I'm saying is, if I remember correctly, the time
4 period the records were obtained for only led up to a period
5 of April 12th, and I don't believe there were records after
6 that period.

7 Q Okay.

8 I'm going to ask you a couple of -- so, sorry.
9 Withdrawn.

10 This is a frequency analysis of communications
11 between Zhu Feng and McMahon.

12 Do you see that?

13 A I do.

14 Q And that was the only frequency analysis you were asked
15 to do?

16 A For purposes of this SMS, yes.

17 Q Okay. So did you -- so am I right, then, that you did
18 not do an analysis of text messages between McMahon and Tu
19 Lan, for example?

20 A No, I did not.

21 Q And you did not do an analysis of text messages between
22 Mr. McMahon and Hongru Jin?

23 A No.

24 Q And these names are names you're familiar with because
25 these are the same names that were on that list that was

HWANG - CROSS - MR. LUSTBERG

1 Exhibit 315 that we talked about earlier, right?

2 A Yes.

3 Q Okay. And you did not do an analysis of text messages
4 between Mr. McMahon and Sun Hui; is that right?

5 A No.

6 Q And you did not do one?

7 A Yes, I did not.

8 Q Okay. I know it's confusing.

9 And nor did you do an analysis of text messages
10 between Mr. McMahon and someone named Xiao Jun, correct?

11 A Right.

12 MR. LUSTBERG: Okay. One moment, Your Honor.

13 (Pause in the proceedings.)

14 BY MR. LUSTBERG:

15 Q With regard to those last names that I just gave you, do
16 you know whether there were any text messages between
17 Mr. McMahon and any of those people whose names I just
18 mentioned?

19 A Between the other parties, I don't recall exactly what
20 party or from what period, because there were just so many
21 communications, but I do recall that there were -- between
22 some of the parties, generally there were some SMS messages,
23 and between some parties there were not. However, between the
24 numbers that we were just looking at on the bar chart, there
25 definitely was a significant higher number of messages.

HWANG - CROSS - MR. LUSTBERG

1 Q Higher number then what?

2 A Then if it was just anywhere like a single digit amount
3 or just in the 20s range.

4 Q Let me be clear.

5 The frequency analysis that we were just looking at,
6 that was a frequency analysis that you did because that was
7 what the U.S. Attorney's Office asked you to do, right?

8 A For the frequency analysis, I believe that was the more
9 mutual agreement. Because I was conducting the analysis, and
10 there was just a significantly higher number of messages, and
11 so we agreed that that would be an official.

12 Q Okay. So just to go back to what I was asking a few
13 moments ago.

14 You testified you were not asked to do a frequency
15 analysis between Mr. McMahon and let's say Tu Lan.

16 Do you know if there were any SMS messages between
17 Mr. McMahon and Tu Lan?

18 A I don't recall off the top of my head.

19 Q Okay. Do you know whether there were any text messages
20 between Mr. McMahon and Hongru Jin?

21 A I also don't recall.

22 Q Okay. Would that be the same answer if I went through
23 the other names I just gave you that, that you don't recall?

24 A Yes.

25 MR. LUSTBERG: Okay. I have nothing further, Your

HWANG - CROSS - MS. WONG

1 Honor.

2 THE COURT: Thank you.

3 Any cross from you, Ms. Wong?

4 CROSS-EXAMINATION

5 BY MS. WONG:

6 Q Good morning, Ms. Hwang. My name is Renee Wong.

7 And there is no relation between us, correct?

8 A No.

9 MS. CHEN: Just to be clear, Ms. Hwang's name is
10 spelled H-W-A-N-G.

11 THE COURT: Go ahead.

12 MS. WONG: All right. I represent defendant
13 Congying Zheng.

14 Ms. Conti, would you be able to publish for the jury
15 Exhibit 315, already in evidence?

16 (Exhibit published.)

17 Q Ms. Hwang, is my client's name, which is Congying Zheng,
18 on this exhibit as a party name?

19 A No, it is not.

20 Q Ms. Hwang, did you analyze any phone records, whether it
21 be voice calls or text messages, of Mr. Zheng?

22 A I did not.

23 Q Do you have any information about communications between
24 Mr. Zheng and any of the people on that phone summary chart?

25 A I'm not aware of the phone numbers associated with

HWANG - CROSS - MR. TUNG

1 Mr. Zheng.

2 MS. WONG: Thank you. No further questions.

3 THE COURT: Thank you.

4 Mr. Tung?

5 MR. TUNG: Yes.

6 CROSS-EXAMINATION

7 MR. TUNG: Good afternoon.

8 Ms. Conti, can we show the witness Government
9 Exhibit 4019B.

10 THE COURT: 4019B. Yes.

11 The government is checking to see if there actually
12 is a 4019B.

13 THE COURTROOM DEPUTY: 4019B, previously admitted.

14 (Continued on the following page.)
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Hwang - cross - Tung

1 CROSS-EXAMINATION

2 BY MR. TUNG: (Continuing)

3 THE COURT: Would you like that enlarged? Just ask
4 Ms. Conti, if you could.

5 THE COURTROOM DEPUTY: Mr. Tung, you have to move
6 the microphone and speak into the microphone.

7 Q Is this the communication between Mr. McMahon and Eric?

8 THE COURT: Why don't you do this? Why don't you
9 have Ms. Conti blow up the participant's portion right above
10 there. If you can call that out, that would be great.

11 MR. TUNG: I think that's the one.

12 Can we move up a little bit on that blue box.

13 That's the one.

14 Shall I proceed to ask questions?

15 THE COURT: You can. Bear in mind, I don't think
16 the jury can read it if you want them to be able to follow
17 along.

18 MR. TUNG: Can we make out the full screen. Yes.

19 THE COURT: Here we go.

20 Q Ms. Hwang, you -- during your testimony yesterday, you
21 analyzed this conversation between a Detective McMahon and
22 other detective Eric Gallowitz; right?

23 A I read some parts of these messages between these two
24 parties.

25 Q Now, that message -- that communication occurred, or took

Hwang - cross - Tung

1 place on what day? Can you tell?

2 A I believe the date says October 5, 2016.

3 Q And now, is that the -- that message was generated from
4 the telephone number of Mike McMahon; right?

5 A Based on what we see in the top row of "from," it says
6 Mike McMahon.

7 Q And that message was sent to another fellow I believe by
8 the name of Eric Gallowitz; right?

9 A Based on what we see in the "to," yes.

10 Q And based on the message on the screen, Mike was telling
11 the other fellow he is wanted by Interpol, wow, does that mean
12 -- I'm sorry. Withdrawn.

13 So isn't it true that Mike McMahon was telling his
14 fellow detective that he found --

15 THE COURT: Sustained. Sustained.

16 Remember, that's for the jury to decide, what the
17 messages means.

18 She is simply reading things into the record, so she
19 is not here to interpret any evidence.

20 Q Well, does that message tell us that it was on October 5,
21 2016 that Detective Mike McMahon found that the target?

22 THE COURT: Sustained. Sustained. Same issue, Mr.
23 Tung. Save it for argument.

24 MR. TUNG: Can we show the other message. I think
25 it is on the same one.

Hwang - cross - Tung

1 THE COURT: In the same exhibit?

2 MR. TUNG: Scrolling down.

3 THE COURT: Okay.

4 MR. TUNG: A little bit above.

5 I cannot find this message. Does anyone remember
6 the message that says --

7 THE COURT: Mr. Tung, why don't you go over and talk
8 to counsel.

9 MR. TUNG: You can take that down.

10 THE COURT: Okay. So taking down the exhibit.

11 Q Ms. Hwang, I cannot find the exhibit now, but immediately
12 after the previous message, you analyzed the messages, the
13 communications between Detective McMahon and Emily Hsu, the
14 interpreter. Did you -- do you still remember that?

15 A I'm sorry. Can you repeat that?

16 Q Okay. Immediately after the Government displays the
17 previous message, it follows up with another analysis of a
18 message communication between Detective McMahon and the
19 interpreter for the middleman?

20 THE COURT: I'm going to correct the question a
21 little bit. I don't think the witness has been analyzing
22 things. She has been reading those into the record, the text
23 messages. So I just want the question to be a little clearer.

24 So you read a number of text messages into the
25 record. Do you recall that?

Hwang - cross - Tung

1 THE WITNESS: I do.

2 THE COURT: Okay. Mr. Tung is trying to identify
3 one that said, paraphrasing --

4 MR. TUNG: That was immediately after that message,
5 the one that I displayed here, because I don't have the
6 message here, that says -- the message says my client, Zhu
7 should have known the target was most wanted by the Interpol,
8 but he didn't tell us. That was the message that --

9 THE COURT: Mr. Tung, let's have a sidebar.

10 (Continued on next page.)
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Sidebar

1 (The following occurred at sidebar.)

2 THE COURT: Mr. Tung, I really want to avoid having
3 these discussions about what you think the evidence showed or
4 what it was in front of the jury. I'm not sure your memory is
5 accurate. You need to get organized before you get up to the
6 podium.

7 MR. TUNG: I have written down, when I took notes,
8 but obviously, you know, I don't have the technical support,
9 so I don't remember.

10 THE COURT: No, but you have copies of the exhibits
11 or you were provided them long before the trial started and,
12 then, of course, they were displayed during the trial. So,
13 perhaps during the sidebar, you can try to describe and maybe
14 Ms. Chen can help you identify what page in the exhibit you
15 are looking for.

16 MS. CHEN: Your Honor, why don't I look in our
17 records and see if I can find the exhibit number for what Mr.
18 Tung is referring to.

19 MR. TUNG: It was --

20 THE COURT: Hold on, Mr. Tung.

21 MS. CHEN: In addition, we would offer that the
22 Government would help put up exhibits during Mr. Tung's
23 cross-examination should that be helpful.

24 But I will note, for the record, that any discussion
25 as to the substance of any of the texts or other documents

Sidebar

1 that Ms. Hwang read into the record yesterday is beyond the
2 scope her direct examination and that is inappropriate cross
3 examination.

4 THE COURT: That's a given.

5 I don't know, Mr. Tung, if you're going to ask some
6 of the same questions that you did about the first text
7 messages that you called up, because you can't have this
8 witness give her interpretation of what it means because
9 that's obviously for the jury to decide. The text message
10 simply says what it says and all she did -- and this is why I
11 corrected you on you phrasing of the question is analysis.
12 She didn't analyze the text messages in terms of the content
13 and you cannot ask her any questions about does this show or
14 does this mean that something happened on a certain date.
15 Just remember that. So if that's the purpose of calling up
16 these additional exhibits, then don't bother because I'm not
17 going to let you ask those questions.

18 MR. TUNG: That's fine, Your Honor.

19 I just want reinforce the memory of jury, you know,
20 when I refer to these two exhibits so when I do my closing
21 argument, that will stick into their mind. I'm just repeating
22 what she read into the record.

23 MS. CHEN: First of all, Ms. Hwang did not read
24 these particular text messages into the record. There were
25 certain documents that she read solely as to the attribution

1 of a name to a phone number. She did not -- she was not a
2 publication witness in that sense. She did read other WeChat
3 messages, but I don't believe that's what Mr. Tung is
4 referring to.

5 THE COURT: So she has only been shown one so far,
6 and you're saying even as to that one she was not the person
7 who read it into the record?

8 MS. CHEN: Correct.

9 THE COURT: Okay.

10 MS. CHEN: This is well beyond the scope.

11 MR. TUNG: If that's the situation, I remember she
12 did read two messages, okay, because the Government --

13 THE COURT: Hang on.

14 MR. TUNG: -- has to tie them together.

15 THE COURT: Hang on. Let me stop you for a minute.

16 Let's just take our morning break. Mr. Tung, speak
17 to the Government to see if you can identify the exhibits.
18 And then, Ms. Chen, you will let me know before we resume
19 whether or not this witness actually read those into the
20 record.

21 If not, Mr. Tung, you're not getting them in.
22 They're in the record. Quite honestly, I'm giving you a
23 little leeway to replay them because you don't --

24 MR. TUNG: That's fine.

25 THE COURT: -- that's not really the proper scope of

1 cross-examination, because you're not asking her anything; you
2 just want her to repeat what she said before.

3 MR. TUNG: I will ask something and see what I'm
4 going to ask because what happens is thousands of messages
5 that she went through yesterday and I just want to -- and I'm
6 only focused on these two.

7 THE COURT: All right. You guys confer. I'm going
8 to let the jury go for 15 minutes.

9 MS. CHEN: Okay.

10 (End of sidebar conference.)
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1 (Continued on next page.)

2 (In open court.)

3 THE COURT: Folks, Mr. Tung and Mr. Zhu, please,
4 please, keep it down.

5 So, ladies and gentlemen, my apologies for having
6 the sidebar, which leads me to determine that we need to take
7 our morning break a little early to resolve or fully resolve
8 the issues we started to address at the sidebar. So be ready
9 to go again at 11:20, but we are going to start punctually
10 this time so we can move quicker through the evidence.

11 Don't talk about the case. Don't do any research.
12 Keep an open mind.

13 THE COURTROOM DEPUTY: All rise.

14 (Jury exits the courtroom.)

15 THE COURT: Ms. Hwang, you are excused and you
16 should leave the courtroom.

17 (Witness excused.)

18 THE COURT: Everyone else is free to go. Obviously
19 the Government should confer with Mr. Tung and resolve this
20 issue.

21 Let's be ready to go at 20 after.

22 (Recess taken.)

23 THE COURT: All right. We are going to get the
24 jury, folks.

25 MR. HEEREN: Thank you.

Proceedings

1 THE COURTROOM DEPUTY: All rise.

2 (The jury enters the courtroom.)

3 THE COURT: Please be seated, everyone.

4 We are going to resume the examination, or
5 cross-examination of the witness by Mr. Tung.

6 Hold on one second. I think there is a request from
7 the jurors to move the face board to somewhere where all of
8 the jurors can see it. Poor Alternate Juror No. 5 is unable
9 to see it.

10 Raising it might be difficult. It is hard to find a
11 good place for it. Right here. Right in front of the
12 Government's table. Maybe make it lower. Maybe over here but
13 not blocking the defense's view.

14 THE COURTROOM DEPUTY: Right here.

15 THE COURT: How are we doing, Alternate No. 5?

16 ALTERNATE JUROR NO. 5: All good.

17 THE COURT: Excellent.

18 JUROR: We can't. We can stand.

19 THE COURT: Remember, ladies and gentlemen, feel
20 free to stand if you can't see anything. And let us know if
21 it becomes a problem.

22 Sorry about that, Mr. Tung. Go ahead.

23 MR. TUNG: Thank you.

24 Can we publish Government's GX 4004.

25 MS. CHEN: Just so the record is clear, we are

Hwang - cross - Tung

1 looking at page 10 of this exhibit.

2 THE COURT: Thank you.

3 BY MR. TUNG: (Continuing)

4 Q Ms. Hwang, yesterday, you went through this communication
5 between Mike McMahon and Emily Hsu, the interpreter here. Did
6 you go through this exhibit yesterday?

7 A I did read some parts of the message, yes.

8 Q All right. Can you read the last blue box starting from
9 I'm sure -- I'm sorry. Why don't we start from the beginning.

10 Can you read "I just some checks on him"?

11 THE COURT: Do you want to read one side and she
12 will read the other?

13 Q You'll read the blue and I'll read the white section.

14 A Okay.

15 "I just some checks on him. Looks like he's wanted
16 in China for corruption."

17 Q "Okay. Would you think it will be okay to share this
18 information with Mr. Zhu? Or should I not to pass this
19 information to him?"

20 A "I'm sure he knows this, but he didn't tell us. I think
21 he should have. He wanted, wanted for corruption,
22 embezzlement and taking bribes. He Google -- he Google his
23 name. You'll see the photo he sent me."

24 Q Thank you.

25 Now, you analyzed -- the Government provide you a

Hwang - cross - Tung

1 lot of telephone communications, a lot of data, a lot of
2 evidence that you have analyzed for you to come in to testify,
3 right, as an expert?

4 MS. CHEN: Objection. Ms. Hwang is not qualified as
5 an expert.

6 THE COURT: Yes. Correct. Sustained.

7 Q You coming to testify on behalf of the Government FBI and
8 you --

9 THE COURT: Sustained. Sustained.

10 She is called as a witness by the prosecution.

11 Q All right. So you are called as a witness by
12 prosecution, but before you coming here to testify you have
13 analyzed lot of communications, telephone communications,
14 e-mail communications, and WeChat communications; correct?

15 MS. CHEN: Objection, Your Honor.

16 THE COURT: Sustained. Sustained.

17 Mischaracterizes her testimony.

18 Again, Mr. Tung, analyze is not the right word for
19 much of what she testified about. She just read some things
20 into the record.

21 MR. TUNG: Well, Your Honor, she did give the jury
22 her qualifications as an analyst.

23 THE COURT: Again, I don't want to have this
24 dialogue, but ask another question bearing in mind she did
25 some analysis of phone records or summarizing, then simply

Hwang - cross - Tung

1 reading some things into the record.

2 Q Ms. Hwang, before you coming to testify here today or
3 before yesterday, you must have reviewed some of the evidence
4 that the Government is giving you to come in to testify,
5 right?

6 A Correct.

7 Q Now, throughout your review of all the evidence or
8 communications between various parties, have you seen any
9 evidence or communications between Chinese Government or
10 Chinese officials with the defendant Mr. Yong Zhu here before
11 October -- before October 5, 2016 when that conversation was
12 taking place?

13 MS. CHEN: Objection, Your Honor.

14 THE COURT: Sustained.

15 Mr. Tung, could we have another conversation at
16 sidebar.

17 (Continued on the next page.)

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1 (The following occurred at sidebar.)

2 THE COURT: She testified that she doesn't know
3 about the case overall. She was asked to conduct a very
4 discreet task of analyzing some phone records or really
5 summarizing them or doing a frequency analysis and then
6 reading some things in the record. But you asked her the
7 question are there calls between Chinese officials. She
8 wouldn't know that because that wasn't part of her
9 responsibility because she doesn't know who is who.

10 MR. TUNG: All right. So then I can ask a more
11 narrow from Hu Ji to Tu Lan.

12 THE COURT: Correct. You can refer to names, but
13 just don't call them Chinese officials.

14 MR. TUNG: Okay.

15 (End of sidebar conference.)

16 (Continued on next page.)

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Hwang - cross - Tung

1 (In open court.)

2 THE COURT: So the last objection was sustained and
3 then Mr. Tung will ask another question.

4 BY MR. TUNG: (Continuing)

5 Q Ms. Hwang, throughout your review of those evidence and
6 telephone communications, before October 5, 2016 for those
7 data, did you notice any communications between a person by
8 the name of Hu Ji and Mr. Zhu?

9 A Can you go back to the summary chart that I created for
10 February of 2016?

11 THE COURT: So this is Exhibit 3 --

12 MS. CHEN: 316, Your Honor.

13 THE COURT: 316, and it's being published for the
14 benefit of the witness.

15 THE WITNESS: Can you go to the next page.

16 THE COURT: There are five pages in total.

17 A I'm sorry, to clarify, was the question prior to October
18 6, 2016?

19 Q October 5th --

20 A 5th.

21 Q -- 2016?

22 A No, they were none.

23 Q Did you see any communications between Li Feng and Mr.
24 Yong Zhu prior to 10, 5, 2016.

25 A I'm sorry, can you repeat the question name again? Was

Hwang - cross - Tung

1 Li Feng?

2 Q Li Feng, L-I F-E-N-G.

3 A I don't believe I -- that wasn't one of the phone numbers
4 that I was to focus on.

5 Q Did you see any communications between Tu Lan and Mr.
6 Yong Zhu prior to October 5, 2016 for your review of those
7 evidence?

8 A I did not, but I would also like to highlight that the
9 summary chart and then also based on my review was specific to
10 the time period. And, so, if there were communications, I
11 can't say if there were communications prior to September 1,
12 2016.

13 Q Well, that's not a problem because my question is only
14 focusing your -- within the scope of your analysis.

15 A Okay.

16 Q I'm not asking anything else beyond your analysis.

17 A Okay. I just wanted to clarify.

18 Q Also, in your analysis, or in your material review of
19 those telephone records and telephone communications, all
20 those electronic communications, have you seen any
21 communications either on telephone or any other devices after
22 October 17, 2016 between Yong Zhu and any of those people
23 listed on your -- this exhibit, Government Exhibit 316?

24 MS. CHEN: Objection as to vagueness.

25 THE COURT: Yes. Agreed.

Hwang - cross - Tung

1 Which people are you talking about?

2 MR. TUNG: All right. So I will ask specific
3 questions then.

4 Q Ms. Hwang, in your analysis or in your review of those
5 evidence of telephone communications when you make this chart,
6 you know, when you -- do you notice -- after October 17, 2016,
7 did you notice any communications between Yong Zhu and
8 Detective McMahon, Michael McMahon?

9 A Can we go to the next page on this exhibit?

10 I do see one. Can you scroll just a little up.

11 There is one outgoing call on November 7th.

12 THE COURT: Go back. You were saying November 7th?

13 Why don't you indicate the time so the record is
14 clear.

15 THE WITNESS: My apologies.

16 November 27, 2016, at 9:07 p.m., there is an
17 outgoing from phone number associated with Yong Zhu to a phone
18 number associated with McMahon.

19 Q AND did you, like the other -- withdrawn.

20 Did you go in to analyze or did you look into the
21 contents of this communication between Yong Zhu and Michael
22 McMahon on that day?

23 A Can you please clarify what you mean by contents?

24 Q Well, did you exam -- because on the other occasions you
25 show the contents of the communications between the parties.

Hwang - cross - Tung

1 Did you go into that communication, that telephone
2 communication?

3 Did you look at anything.

4 Did you analyze anything regarding this
5 communication?

6 MS. CHEN: Objection, Your Honor.

7 THE COURT: Sustained.

8 The question is do you know the contents of that
9 communication? Yes or no?

10 THE WITNESS: No. I only know based on what we see
11 in the record.

12 Q Isn't that true, the call only last for a minute? Is
13 that correct?

14 A Based on the records, that is what it says.

15 Q And did you see any other communications between Yong Zhu
16 and Detective Michael McMahon?

17 A After --

18 Q After --

19 A -- November 7, 2016?

20 Q No. October 17, 2016.

21 A Can we keep scrolling?

22 Q Keep scrolling down.

23 A No, I did not.

24 Q Okay. Ms. Hwang, did you also see any communications
25 between -- after October 17, 2016 between Hu Ji and Mr. Yong

Hwang - cross - Tung

1 Zhu?

2 THE COURT: Could you stop for a minute. I mean,
3 you are scrolling the exhibit and your question is Hu Ji and
4 Yong Zhu?

5 MR. TUNG: Hu Ji and Yong Zhu, yes.

6 THE COURT: Okay. Well --

7 THE WITNESS: After November 17th, is that correct?

8 THE COURT: No, after October 17th.

9 Q No, no. October 17th.

10 A October 17th.

11 THE COURT: So, looking at page 2 now of exhibit --
12 what exhibit?

13 MS. CHEN: 316, Your Honor.

14 THE COURT: Okay, 316. Go ahead.

15 A I do see calls.

16 THE COURT: Did you want to ask a follow-up?

17 She does see calls after October 17, 2016 between Hu
18 Ji and your client, Mr. Yong Feng. Was I wrong.

19 MS. CHEN: Yong Zhu, Your Honor.

20 THE COURT: Zhu Yong. My apologies.

21 Q Are you referring to the call made on October 26, 2016.

22 A I am.

23 Q The phone call was about 5, 27 minutes; right?

24 A Five minutes and twenty-seven seconds.

25 Q And did you look into the contents of the phone call

Hwang - cross - Tung

1 between --

2 A The records wouldn't provide contents to the phone call.

3 Q So there is no records, just the phone call, the only
4 thing that you have is the data that Hu Ji made a phone call
5 to Yong Zhu --

6 A Yes.

7 Q -- on October 26, 2016?

8 Did you see any other phone calls after that October
9 2016 between Hu Ji and Yong Zhu?

10 A I'm sorry, can you keep scrolling?

11 I do see calls again on October 27, 2016.

12 Q And that phone call was lasting -- that lasted for 15
13 minutes; right?

14 A The one at 5:56:54 a.m.

15 Q And do you see any other phone calls beyond October 27th?

16 A I do. There are more additional calls on October 27,
17 2016.

18 Q And beyond October 27, 2016, do you see any other phone
19 calls between Hu Ji and Yong Zhu?

20 A Again on October 28, 2016.

21 Q And that's a phone call that lasted for three minutes;
22 right?

23 A Three seconds.

24 Q Three seconds. Okay. Anything else beyond October 28,
25 2016?

Hwang - cross - Tung

1 A No.

2 Q And isn't it true, Ms. Hwang, you said earlier the
3 telephone voice call or other information provided to you that
4 only -- that only covers a period up to April 12, 2017?

5 A I don't recall if it was for all of the rest of the
6 record, but specifically for that T-Mobile call detail record
7 that I was referring to when I was explaining the SMS
8 frequency analysis.

9 Q So from this analysis, from this exhibit, you wouldn't
10 know that beyond December 2029 -- December 29, 2016 if Hu Ji
11 makes more phone calls to Yong Zhu or, likewise, the other way
12 around, you don't know if any communications between Hu Ji and
13 Yong Zhu from the telephone records provided here, that's
14 exhibit -- Government Exhibit 316?

15 A We would have to refer back to the original records to
16 confirm that.

17 Q What do you mean by that?

18 A The summary chart is specifically focused on the period
19 of September 1st of 2016 through December 31st of 2016;
20 however, the original records, there are additional
21 communications beyond, or previous to that period of time.

22 Q So is that fair to say between the last phone call that
23 Hu Ji had with Mr. Yong Zhu in October -- October, in October
24 28 -- October 2016 -- withdrawn.

25 Is that fair to say in December 2016 there's no

Hwang - cross - Tung

1 communication between Yong Zhu and Hu Ji according to this
2 Exhibit 316.

3 A No. I did not observe voice calls between those parties
4 in the records.

5 Q Just for clarification, because Yong Zhu bears the last
6 name Z-H- U, and in the other analysis, or in the other
7 evidence that you mentioned there was another person by the
8 name of Johnny Zhu, just for the record, Johnny -- for your
9 understanding, Johnny Zhu and Yong Zhu, are they the same
10 person or are they a different person?

11 A I'm not sure.

12 Q You're not sure.

13 MR. TUNG: Then I have to ask you to show the
14 witness Government Exhibit -- that's in evidence -- 812-C.

15 THE COURT: Previously admitted?

16 MR. TUNG: It's already admitted.

17 THE COURT: Okay.

18 Q Now, on the right-hand side, the person under Johnny Zhu,
19 can you -- is this Johnny Zhu my client Yong Zhu or it's a
20 different person?

21 THE COURT: Sustained.

22 Remember the limited scope of her knowledge about
23 the investigation, and also what is properly within the
24 province of the jury and not this witness in terms of
25 interpreting the evidence.

Hwang - redirect - Chen

1 MR. TUNG: I have no further questions.

2 THE COURT: Thank you very much, Mr. Tung.

3 Any redirect?

4 MS. CHEN: Briefly, Your Honor.

5 THE COURT: All right.

6 REDIRECT EXAMINATION

7 REDIRECT EXAMINATION

8 BY MS. CHEN:

9 Q Ms. Hwang, do you recall being asked, I believe by Mr.
10 Lustberg, regarding certain Verizon records?

11 A I do.

12 MS. CHEN: Can we look at what is in evidence as
13 Government Exhibit 31, please.

14 (Exhibit published.)

15 MS. CHEN: If we could zoom in on the first two rows
16 of the main chart.

17 Q I think you were asked about the duration column. Do you
18 remember that?

19 A I do.

20 Q And you were asked about how seconds all appear to be
21 zeros; is that right?

22 A Yes.

23 Q Can you explain why that is?

24 A That's because the source records for specifically 2017
25 for this phone number ending in 9169 was sourced from the

Hwang - redirect - Chen

1 archived records and as I briefly touched upon in my direct is
2 that the archives records are essentially what the user or any
3 party would see in their billing statement. And so you do see
4 the call logs in your billing statement, it's just more
5 limited or slightly limited information that we would obtain
6 in call detail records.

7 The call detail records would cover -- in terms of
8 duration -- the hours, minutes, and the seconds, as well as
9 the times. You do see the hours, minutes, and seconds of when
10 the call took place.

11 And in the archived records, we only get in terms of
12 the time of when the call was placed or received, the hour and
13 the minute. And, likewise, with the duration, we only see the
14 minute and the seconds.

15 MS. CHEN: And can we go to Government Exhibit 317,
16 which is also in evidence. And specifically if we can zoom in
17 on the call on April 5, 2017 at approximately 4:33:40 seconds
18 p.m.

19 (Exhibit published.)

20 Q And Ms. Hwang, again, who is this call from?

21 A This is an outgoing call from the phone number associated
22 with McMahon to the phone number associated with Kelly.

23 Q And in connection with creating this summary chart and
24 particularly this entry, did you review again Verizon records
25 for the number ending 9169?

Hwang - redirect - Chen

1 A I did.

2 Q Do you see -- in the duration there, do you see seconds?

3 A I do.

4 Q Can you explain why that is?

5 A The Verizon records that we had for the 2017 period were
6 obtained from the call detail records provided by Verizon as
7 opposed to the archived records. And, so, that's why for the
8 2017 phone summary chart, it's the same provider, Verizon,
9 same phone number ending in 9169. However, in this chart, you
10 can expect to see, in terms of the time, the hour, minute, and
11 second, likewise, the duration in minute and seconds.

12 MS. CHEN: Okay. Can we put up now what is in
13 evidence as Government Exhibit 318.

14 Q Ms. Hwang, do you remember being asked on cross
15 examination about the creation of this summary exhibit?

16 A I do.

17 Q Can you talk a little bit about how you put this together
18 and why you put it together?

19 A I created this exhibit because it -- in the beginning I
20 was provided several phone numbers and I was provided all the
21 original phone records and I was provided the names that were
22 associated with the phone numbers and I began to just filter
23 down the communications and the calls between the numbers and
24 the records that I was provided. And when doing the initial
25 overview in the analysis, I noticed that there was a

Hwang - redirect - Chen

1 significantly higher number of SMS messages that were
2 specifically between these two-party contacts, and so for
3 purposes of displaying it in a summary chart, we would
4 literally have over 300 lines and rows of communication, and
5 to simplify that, we figured we still wanted to highlight that
6 there were definitely over 350 SMS messages between these
7 parties, but the best way to display that, instead of just
8 saying there were, you know, 356 messages incoming and
9 outgoing between these parties, to present that in a visual
10 format, and so I created this chart.

11 MS. CHEN: No further questions, Your Honor.

12 THE COURT: Thank you very much, Ms. Chen.

13 Any recross?

14 MR. LUSTBERG: No, Your Honor.

15 MS. WONG: No, Your Honor.

16 THE COURT: Mr. Tung?

17 MR. TUNG: One question.

18 THE COURT: All right.

19 (Continued on next page.)
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HWANG - RECROSS - MR. TUNG

1 MR. TUNG: Can we show the witness what is
2 Government Exhibit 317?

3 THE COURT: In evidence. All right. You can
4 publish that.

5 (Exhibit published.)

6 MR. TUNG: Yes.

7 RECROSS EXAMINATION

8 BY MR. TUNG:

9 Q Ms. Hwang, do you see any communications during this
10 period April 5th, 2012 -- 2017 and April 12, 2017 that was
11 made between Yong Zhu and with any other persons in this -- on
12 the top left any of those people during this entire period?

13 MS. CHEN: Objection, beyond the scope.

14 THE COURT: It is but I'll allow it. Go ahead.

15 A Based on what we see in my summary chart, no.

16 Q No.

17 MR. TUNG: Thank you.

18 THE COURT: Thank you very much. You may step down.
19 Thank you very much, Ms. Hwang.

20 (The witness was excused.)

21 THE COURT: So I understand the jury had inquired of
22 Ms. Gonzalez the full spelling of the witness' last name and I
23 think it was H-U-A-N-G; is that right?

24 THE COURTROOM DEPUTY: H-W.

25 MS. CHEN: H-W-A-N-G.

HWANG - RECROSS - MR. TUNG

1 THE COURT: Hwang. All right.

2 Government call your next witness.

3 MR. HEEREN: Government calls Hongru, H-O-N-G-R-U.

4 Jin, J-I-N.

5 THE COURT: Then I think we'll have the translators
6 come up to the front. Thank you.

7 (The witness takes the stand.)

8 THE COURT: Let's swear in the witness.

9 THE COURTROOM DEPUTY: Please raise your right hand.

10 (Continued on next page.)

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H. JIN - DIRECT - MR. HEEREN

1 **HONGRU JIN**, called as a witness, having been first duly
2 sworn/affirmed, was examined and testified as follows:

3 THE WITNESS: Yes.

4 THE COURTROOM DEPUTY: Thank you. You can have a
5 the seat.

6 Please state and spell your name for the record.

7 THE WITNESS: My name is Hongru Jin. H-O-N-G-R-U.
8 Last name J-I-N.

9 THE INTERPRETER: H-O-N-G-R-U. Last name J-I-N.

10 THE COURT: You may inquire, Mr. Heeren.

11 MR. HEEREN: Thank you, your Honor. Good afternoon.
12 Good afternoon, ladies and gentlemen.

13 DIRECT EXAMINATION

14 BY MR. HEEREN:

15 Q Mr. Jin, do you go by any other first names?

16 A Yes. Allen.

17 Q How old are you?

18 A Thirty-three.

19 Q Do you speak and understand some English?

20 A Yes.

21 Q Do you feel more comfortable testifying today with the
22 aid of an interpreter?

23 A Yes.

24 Q Where do you currently live?

25 A Flushing, Queens.

H. JIN - DIRECT - MR. HEEREN

1 Q Were you born in the United States?

2 A No.

3 Q Where were you born originally?

4 A I was born in Tianjin, China.

5 Q For the court reporter is that spelled T-I-A-N-J-I-N?

6 A Yes.

7 Q Are you married?

8 A Yes.

9 Q Do you have any children?

10 A Yes, one.

11 Q What do you currently do for a living?

12 A I'm an office clerk.

13 Q Were you previously arrested for federal crimes?

14 A Yes.

15 Q What crimes?

16 A Okay. Acting as an agent of a foreign government and
17 conspiracy. Another charge was across the state line
18 following, stalking someone.

19 Q And did you plead guilty to any of these crimes?

20 A Yes.

21 Q What crimes did you plead guilty to?

22 A I pleaded guilty to both counts.

23 Q What did you do that made you guilty of these crimes?

24 A I indeed cooperated with the Chinese government to
25 monitor and to follow someone.

H. JIN - DIRECT - MR. HEEREN

1 Q Did you do this with other people?

2 A Yes.

3 Q When did you do this?

4 A 2017.

5 Q To be clear, did you know when you took the actions that
6 you took that you were hired by the Chinese Government?

7 A I knew it.

8 Q What did you understand was the goal of the plan that you
9 participated in?

10 A For the purpose of extradite the former Chinese official
11 to return to China.

12 Q What do you mean when the use the word "extradite"?

13 A That means to bring back the former Chinese officials
14 back to China.

15 Q Do you know a person named Zhu, Z-H-U, Feng F-E-N-G?

16 A Yes, I do.

17 Q How do you know him?

18 A Through my mutual friend, other friends to know him.

19 MR. HEEREN: I'd like to show you what's been marked
20 for identification for the witness only, Government's
21 Exhibit 5.

22 A All right.

23 Q Then -- have you had a chance to look at that?

24 A Yes.

25 MR. HEEREN: And I'd also, for the witness only, if

H. JIN - DIRECT - MR. HEEREN

1 we could please show the witness Government's Exhibit 21
2 marked for identification.

3 A Yes, I've seen it.

4 Q What are these exhibits?

5 A Number five is a picture of me, myself. Exhibit 21 is a
6 picture of Zhu Feng.

7 Q Is Government's Exhibit 5 a fair and accurate depiction
8 of yourself, and Government Exhibit 21 a fair and accurate
9 depiction of Zhu Feng?

10 A Yes.

11 MR. HEEREN: The government moves to admit
12 Exhibits 5 and 21.

13 MR. LUSTBERG: No objection.

14 MR. GOLDBERGER: No objection.

15 MR. TUNG: No objection.

16 THE COURT: Admitted, both of those you and may
17 publish.

18 (Government Exhibits 5 and 21, were received in
19 evidence.)

20 MR. HEEREN: Let's first publish -- let's please
21 first publish Government's Exhibit 5.

22 (Exhibit published.)

23 Q Now that the jury can see it, who do we see in Exhibit 5?

24 A That's a picture of myself.

25 MR. HEEREN: Now publishing Government's Exhibit 21

H. JIN - DIRECT - MR. HEEREN

1 previously admitted.

2 (Exhibit published.)

3 Q Who is this a picture of?

4 A Zhu Feng.

5 Q Did Zhu Feng go by any other names?

6 A Johnny Zhu.

7 Q Was Zhu Feng involved in any of the crimes that you
8 committed?

9 A Yes.

10 Q What did he do?

11 A He give me assignment and he formulate the plan together
12 with me.

13 Q Please tell the jury how you were first contacted to join
14 this plan?

15 A So my friend asked me if I'm interested in the job of
16 renting vehicle, acting as a driver because at that time I
17 have a job.

18 Q What did you have a job as at that time?

19 A Tour guide.

20 Q And around what year was this?

21 A 2017.

22 Q Who was the person that contacted you?

23 A Wang Shutao.

24 Q Is that spelled W-A-N-G S-H-U-T-A-O?

25 A Yes.

H. JIN - DIRECT - MR. HEEREN

1 Q After Wang -- did Wang Shutao indicate whether he was
2 contacting you on behalf of anyone else?

3 A When Wang Shutao contacted me he said that Johnny has a
4 job and he asked me if I'm interested to participate. So at
5 that time I thought Johnny was representing Chinese
6 government.

7 Q After Wang Shutao contacted you, were you contacted by
8 anyone else?

9 A Zhu Feng.

10 Q And that's the person you've also identified as Johnny
11 Zhu?

12 A Yes, yes.

13 Q And so during your testimony if I refer to the person as
14 Johnny Zhu, will you understand I'm referring to Zhu Feng and
15 vice versa?

16 A Yes.

17 Q How did Zhu Feng contact you?

18 A Used the WeChat calling, WeChat call.

19 Q What is WeChat?

20 A It's the same function as the American WhatsApp. Through
21 it you can contact people.

22 Q And you distinguished as compared to the American
23 WhatsApp. Is WeChat a Chinese-based application to your
24 understanding?

25 A That's correct. That's what I mean.

H. JIN - DIRECT - MR. HEEREN

1 Q Can you make phone calls, voice calls on WeChat?

2 A Yes.

3 Q Is there also text messaging on WeChat?

4 A That's right.

5 Q Are you also able to send and receive files as
6 attachments?

7 A Yes.

8 Q Are you also able to send and receive short audio
9 messages?

10 A Yes.

11 Q What was your WeChat name?

12 A Blueallen.

13 Q What was Johnny Zhu's WeChat name?

14 A Endlessjohnny.

15 Q And for the sake of the record, was that your WeChat name
16 and Zhu Feng's WeChat name in 2017?

17 A Yes.

18 Q What phone number or phone numbers did you use in 2017?

19 A I have two phone numbers. (646) 620-1532. The second one
20 is (929) 360-3467.

21 Q Around when did Johnny Zhu contact you?

22 A Approximately around the end of March or early part of
23 April.

24 Q What did Johnny Zhu tell you when he spoke to you?

25 A There's a job. The jobs -- the job is to rent a car or

H. JIN - DIRECT - MR. HEEREN

1 to act as a driver and also to surveil or follow someone. The
2 total price for the job is \$1800 and each day approximately
3 \$300.

4 Q Did he tell you who you were doing this job for?

5 A Yes. The Chinese government.

6 Q What did Johnny Zhu tell you about the person who you
7 were supposed to surveil?

8 A Johnny told me that this person being surveilled was a
9 corrupted official from China and there was effort to persuade
10 him to return to China.

11 Q And to be clear, did you have any personal knowledge of
12 the person you were going to surveil's background?

13 A I do not.

14 Q So you indicated you were a driver, were you supposed to
15 pick up anybody?

16 A Yes.

17 Q Who were you supposed to pick up?

18 A I pick up two people. One is named Zhu Feng and the
19 other is Tu Lan.

20 Q Where did you pick them up from?

21 A Newark Airport, New Jersey.

22 Q Did Zhu Feng tell you anything more about how this
23 operation was supposed to work?

24 A Yes.

25 Q Explain what he told you.

H. JIN - DIRECT - MR. HEEREN

1 A So he basically told me that the person that is being
2 surveilled, the owner of that house and the official, the
3 former official has some family relationship.

4 Q Did Zhu Feng indicate whether anyone else was going to
5 participate in this operation other than yourself, Zhu Feng
6 and Tu Lan?

7 A Yes, there would be a private investigator.

8 Q Was anyone else supposed to come -- excuse me.
9 Withdrawn. Where was Zhu Feng and Tu Lan coming from?

10 A China.

11 Q Was anyone else coming from China for this operation or
12 plan?

13 A Yes.

14 Q Please tell us about that.

15 A As far as I know, there will be a doctor and also the
16 ex-chinese official's father.

17 Q How did you know that?

18 A While we're at the hotel formulating the plan Tu Lan and
19 Zhu Feng mentioned that.

20 Q Did you have an understanding of why the official's
21 father was coming from China to the United States?

22 A Zhu Feng did explain, he said it was expecting that the
23 father of the ex-official persuade the ex-official to return
24 to China.

25 Q Was it your understanding -- what was your understanding

H. JIN - DIRECT - MR. HEEREN

1 as to whether the father was doing this voluntarily or
2 otherwise?

3 A It seems to me that he's not doing this voluntarily.

4 Q Did Zhu Feng say anything about whether you can tell
5 anyone about this work?

6 A Zhu Feng said that you have to undergo this action
7 secretly.

8 MR. LUSTBERG: I want to please publish what's been
9 admitted into evidence as Government's Exhibit 812C, and
10 direct Ms. McMahon to please blow up the text messages at
11 April 17, 5:36 p.m.

12 THE COURT: In evidence, right.

13 MR. HEEREN: It is in evidence, your Honor.

14 Excuse me, it is page 5 at 1:36 p.m. My mistake.

15 Actually can you just please blow up the first chat
16 box.

17 Reading into the record: Briefly, it is like this,
18 I will accompany some government personnel to the United
19 States for some business. Need you to drive your own car to a
20 house close to the Newark Airport and stake out there for five
21 days. Twelve hours on the first day, 10 hours on the second
22 day, and eight hours on the last three days. If you see
23 anyone from the house, you need to follow the car and find the
24 address where the car will be parked. The compensation is
25 1800 USD. If you locate the person on the first day, then

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1 there is no need to track afterward.

2 Can you close up the call out, please.

3 Q Mr. Jin, do you recognize the chat ID on the right-hand
4 side of the exhibit?

5 A Johnny Zhu. Johnny Z.

6 Q Who did you understand Johnny Z to be?

7 A Johnny Zhu.

8 Q And directing your attention to the screen name on the
9 left-hand side, do you know the screen name on the left-hand
10 side?

11 A I do.

12 Q Sorry, did you say you do or you do not?

13 A I do. I do recognize it.

14 Q Who do you understand that to be?

15 A Wang Shutao.

16 THE COURT: Spelling.

17 Q Is that spelled W-A-N-G S-H-U-T-A-O?

18 A Yes.

19 Q Is that the same Wang Shutao you described earlier had
20 first contacted you about this plan?

21 A Yes.

22 MR. HEEREN: One second, your Honor.

23 THE COURT: Okay.

24 Q Have you previously reviewed chat communications between
25 yourself using the Blueallen WeChat handle, and Zhu Feng using

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1 the Johnny Z WeChat handle?

2 A Yes, I have.

3 MR. HEEREN: I'd like to approach the witness and
4 show him what's been marked for identification as Government's
5 Exhibit 807A.

6 May I approach the witness, your Honor?

7 THE COURT: Yes, you may.

8 A Do I need to do anything?

9 MR. HEEREN: No, thank you. You can sit down,
10 Ms. Wu. Thank you.

11 Q Mr. Jin, can you just please open what's been marked as
12 Government's Exhibit 807A and tell me if you recognize it?

13 A I do recognize it.

14 Q What is the Government's Exhibit 807A?

15 A This is a communication between me and Johnny Zhu, the
16 WeChat record of conversations or communications between me
17 and Johnny Zhu.

18 Q What language are those communications in?

19 A Chinese.

20 Q Is that the language you communicated in with Zhu Feng?

21 A Yes.

22 MR. HEEREN: I'd like to publish what's been
23 admitted into evidence as Government's Exhibit 807F.

24 THE COURT: Any objection?

25 MR. HEEREN: It's been previously admitted.

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1 THE COURT: Sorry, go ahead and publish it. My
2 apologies.

3 BY MR. HEEREN:

4 Q Can you see 807F on your screen, Mr. Jin?

5 A Yes.

6 Q Generally speaking, does this appear to be an English
7 language version of your chat messages with Johnny Zhu?

8 A Yes.

9 Q I'd like to ask you a few questions about these chat
10 messages. When I do so would it aid in your testimony if you
11 had -- if you were able to review the Chinese language version
12 of these chat messages?

13 A All right, thank you.

14 MR. HEEREN: So, for the sake of the record, I will
15 just note that the witness has what's been marked for
16 identification only Government's Exhibit 807A in front of him
17 and that the jury is seeing Government's Exhibit 807F, which
18 was admitted into evidence.

19 THE COURT: All right.

20 Q So let's just orient ourselves first. Can you please
21 tell us which side of the conversation is you?

22 A The left side is me, the right side is Johnny.

23 Q The left side is you. That's where it says Blueallen and
24 Allen Jin?

25 A Correct.

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1 Q And the right side of the conversation is with
2 Endlessjohnny or Johnny Z?

3 A Correct.

4 Q That's who you knew to be Zhu Feng?

5 A Yes.

6 Q Now on the first message Johnny Zhu writes: Has Taotao
7 talked to you? Do you see that?

8 A Yes, I do.

9 Q Who is Taotao?

10 A It is Wang Shutao I mentioned before.

11 MR. HEEREN: And same spelling for the court
12 reporters.

13 Q So Taotao is Wang Shutao's nickname?

14 A Correct.

15 Q What did you understand Zhu Feng to be talking about when
16 he wrote that to you?

17 A Yes, I know it is the conversation -- the communication
18 between Wang Shutao and Johnny, what they talk about.

19 Q And so are you saying -- withdrawn. In response you
20 appear to provide a phone number; is that correct?

21 A Yes.

22 Q This is one of the phone numbers you used in April of
23 2017?

24 A Yes.

25 MR. HEEREN: If you can just call that out briefly,

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1 Ms. McMahon, the phone number.

2 (Exhibit published.)

3 Q Now turning to pages three -- one back please. If you
4 just please blow up the first two blue boxes on the right.

5 THE INTERPRETER: Counsel, did you mention the page
6 number?

7 MR. HEEREN: Page 3. For the record is the
8 witness' -- Mr. Jin, is your version the same pagination?
9 It's different, right?

10 A Different.

11 Q "When you meet the team members at the airport just say
12 you drive dispatched taxi before in the U.S. You are very
13 familiar with the routes and have plenty of time. Your
14 relationship to me is a friend for many years. Remember, do
15 not raise the question of the pay. Do not ask them what they
16 come here for. I will give you your money. This thing is
17 carried out secretly."

18 Was that a series of text messages sent by Zhu Feng
19 to you?

20 A Yes.

21 Q What did you understand him to be, Johnny Zhu to be
22 talking about in these series of text messages?

23 A That is to say he tell me do not ask so many questions,
24 do not say so many things. If I have any questions I ask
25 Johnny and Johnny will be the person who pay the compensation

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1 to me.

2 Q Turning to page 4 now.

3 A All right.

4 MR. HEEREN: If you can blow up the first blue
5 bubble in Government's Exhibit 807F, which reads:

6 Correct. Just follow the instructions when working
7 for the Chinese government. It will be just fine by playing
8 dumb and not asking questions. I will make the arrangement.

9 Ms. Wu --

10 THE INTERPRETER: I just confirm with the witness
11 that I don't need to interpret what's in the box.

12 MR. HEEREN: Thank you, Ms. Wu.

13 Q Mr. Jin, do you see the message on April 1st, 2017 that
14 I'm referring to?

15 A I do.

16 Q And Zhu Feng tells you that you're working for the
17 Chinese government, do I have that right?

18 A Yes.

19 Q Was this before or after the plan was carried out?

20 A Before.

21 MR. HEEREN: All right. Scrolling further down the
22 page. You can close that call out.

23 Q Do you see a series of messages regarding a flight and
24 the word UA086 and UA087?

25 A Yes, I do.

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1 Q What did you understand Mr. Zhu, Johnny Zhu to be talking
2 about here?

3 A He's telling that the flight number that they are flying
4 from China.

5 Q When you say "they" who are you referring to?

6 A Zhu Feng and Tu Lan.

7 Q Turning to the next page, page 5 of 807F. If you blow up
8 the first two blue chats.

9 Do you see a series of messages from Zhu Feng that
10 references Newark?

11 A Correct.

12 Q On the afternoon of the third?

13 A Yes.

14 Q What did you understand Newark to be a reference to?

15 A Like I just mentioned before, Newark Airport.

16 Q And the afternoon of the third, what did you understand
17 the date he was referencing to date?

18 A April 3rd at 6 o'clock that's when the flight arrive in
19 the New York time.

20 MR. HEEREN: You can close the call out, please.

21 Q Do you see that you send in response a series of two
22 audio messages?

23 A Yes, I see it.

24 Q You ask: Will it start on the day of the airport pickup
25 or not?

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1 A Yes.

2 Q And you also ask about the head count?

3 A Yes.

4 Q What were you talking about here?

5 A I want to confirm that about the job of surveilling and
6 surveillance for one week I want to know whether it would
7 start on the day of the pick up.

8 The second one was that I asked the head count, that
9 means I asked how many people will come and I want to know if
10 my vehicle will fit all.

11 MR. HEEREN: And a question for the interpreter, did
12 you say vehicle?

13 THE INTERPRETER: Yes.

14 MR. HEEREN: You can take that down for now.

15 THE COURT: Mr. Heeren, just so you know, we're
16 going to break a little early for lunch today, it's a quarter
17 of one because I have a special group of folks that I want to
18 meet after we take our lunch break.

19 MR. HEEREN: Okay. Did you say?

20 THE COURT: Or during our lunch break.

21 MR. HEEREN: You want to break at quarter to one.

22 THE COURT: Quarter to one, so you have a couple of
23 minutes.

24 MR. HEEREN: This might be a good breaking point,
25 but I'm happy to ask a few Mr. Questions.

1 THE COURT: Perfect, okay, good.

2 So ladies and gentlemen, we're going to break for
3 lunch today from 12:45 to 1:45 -- so we're going to make it a
4 little longer I also have a couple of other court appearances
5 that I have to handle. We're going to make it 2 o'clock we
6 restart.

7 Enjoy the longer lunch break. Hopefully the weather
8 is still good. Remember, don't talk about the case, don't do
9 any research, keep an open mind. We'll see you at two.

10 THE COURTROOM DEPUTY: All rise.

11 (Jury exits courtroom.)

12 (Luncheon recess.)
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1 A F T E R N O O N S E S S I O N

2 (Time noted: 2:10 p.m.)

3 (In open court; Jury not present.)

4 THE COURT: We're going to go on the record.

5 Mr. Lustberg, I understand there is something you
6 want to discuss before the jury comes back.

7 MR. LUSTBERG: Your Honor, just very briefly.

8 Maybe I can show it to the Court and you can see my
9 concerns.

10 THE COURT: Okay.

11 MR. LUSTBERG: It's this demonstrative that's placed
12 now right in front of the jury.

13 So where Mr. McMahon is on that demonstrative, I
14 don't think is appropriate or consistent with the evidence as
15 we've seen it so far that he's on the same level as Zhu Feng
16 or Hongru Jin, I just don't think that that's fair.

17 Now, at the end of the day, obviously that will be
18 what consist as a demonstrative, but unless it's going to -- I
19 think he should be at the bottom, but wherever, I think it
20 would be appropriate for the Court to issue an instruction,
21 because it's right in front of them, that's appropriate for a
22 demonstrative exhibit, along the lines that this is the
23 government's version of what the evidence shows, at the end of
24 the day it will be for them to decide, and the defense
25 contests that.

1 I just think as it now stands, it's right in front
2 of them, and I don't think -- I really don't think it's a fair
3 depiction of what we've learned in this trial so far.

4 THE COURT: I think that's a fair objection in the
5 sense that I view this exhibit, to some extent, as being
6 almost like a Playbill so that the jurors can keep straight
7 who's who, because the names are obviously very confusing, but
8 to the extent that there is now positioning and use of it as a
9 demonstrative in some way to reinforce the government's theory
10 of the case, arguably it really shouldn't be displayed
11 nonstop.

12 But I think going to your request and, Mr. Heeren,
13 can you raise it because I actually can't see where
14 Mr. McMahon's image is on that.

15 MS. ARFA: His imagine is not on there, just his
16 name.

17 THE COURT: Quite honestly, I think you should just,
18 as Mr. Lustberg requests, just put him somewhere on the bottom
19 of that list. Because the only legitimate purpose I see of
20 having this displayed all the time is to show the Chinese
21 names and the Chinese individuals, because their names are
22 easily confused.

23 In fact, up until fairly recently, I was a little
24 worried, ala what Mr. Tung was getting at, that Yong Zhu, the
25 defendant, might be confused with Zhu Feng because of the

1 similarity in names. So I thought that was a good purpose in
2 having all of the Chinese actors who are not defendants
3 displayed so that the jury had some point of reference for
4 each of those names.

5 But Mr. McMahon, really, and again, is he the only
6 defendant on this board?

7 MR. HEEREN: No, Your Honor, Zhu Yong is on there as
8 well.

9 THE COURT: I will give a limiting instruction, at
10 least to -- right, I mean to the extent that he's listed in
11 some ways higher than Zhu Feng and Hongru Jin -- sorry to the
12 court reporter -- that does seem inappropriate. It certainly
13 suggests a hierarchically, you know, or a pecking order. I
14 don't think that that's appropriate.

15 So can you just put his name either at the very
16 bottom, or I can give a limiting instruction that simply
17 says -- yeah, on the same level as...

18 MR. HEEREN: I don't mean to interrupt, Your Honor.
19 So I guess two points.

20 So, first, the government doesn't object to a
21 limiting instruction about demonstrative versus admitted
22 evidence along the lines of what's normally given on the
23 issue.

24 The second point, I guess, that the evidence doesn't
25 bear out what the demonstrative is, I just would -- we

1 disagree. There has been a substantial amount of
2 communication that have come in that have established
3 communications between Zhu Feng and Mr. McMahon, among others,
4 as well as Jason Zhu -- Zhu Yong, among others in this.

5 Whether or not it looks like -- and the structure,
6 my understanding is it's been common to use demonstratives to
7 lay out the structure of the conspiracy.

8 And, again, with the appropriate limiting
9 instruction that this is the government's view of the -- of
10 marshaling the evidence, that -- we respectfully disagree, but
11 if the Court has its ruling, we understand the Court's ruling.

12 THE COURT: I'll give a limiting instruction just to
13 explain that this is purely a demonstrative exhibit that
14 serves, as I see it, a useful function of letting the jury
15 have a reference for keeping all the names straight, because
16 that is confusing, I think, but that this is really -- it
17 reflects, to the extent that they infer any kind of order or
18 structure or relationship between the parties, this is really
19 the government's theory that the defense does dispute, and
20 that the jury will have to ultimately decide for themselves.

21 The only thing I would say in some contradiction to
22 what you're suggesting, Mr. Heeren, is it's not normal, I
23 don't think or typical, to have a demonstrative displayed the
24 entire time the trial is going on necessarily. Usually it's
25 connected to some presentation of evidence. Obviously judges

1 can allow different practices, I get that.

2 But to the extent that it's being displayed the
3 entire time, and I think for a valid purpose in terms of
4 keeping the players straight, if you will, I'll allow it, but
5 I do want to give them that caution as suggested by the
6 defense.

7 MR. HEEREN: And we understand the Court's ruling.

8 I just would note for clarification. We have been
9 attempting to be mindful of the witnesses we have it up for.
10 This witness, who is going to talk about some, not all, but
11 some of the people on this board. Some of our publication
12 witnesses talked about a number of emails between and among
13 these individuals, and that's where we believe it to be the
14 most appropriate, but we've taken it down, for example, when
15 certain other witnesses have spoken.

16 THE COURT: Oh, that's fine. I hadn't really
17 noticed when you were posting it or taking it down. And now
18 it seems to be sitting on the floor. I don't know if it's a
19 permanent installation there or if you've been removing it, I
20 haven't noticed that.

21 But I do have one question in that regard. I think
22 you have two of the three defendants.

23 MR. HEEREN: That's right, we don't have Mr. Zheng
24 on there, because we haven't -- we don't -- we're not
25 referencing him with this witness, and we have referenced him

1 with a witness in a way that it makes sense to include it up
2 here.

3 THE COURT: Well, I'll give a cautionary or a
4 limiting instruction to the jury when they come out about
5 their -- about the board, and just making clear that it really
6 is the government's demonstrative and their version or their
7 theory about what the evidence would show or the evidence does
8 show, and that the defense obviously disputes that, but it's
9 up to the jury to decide.

10 MR. HEEREN: I would just note so that there's -- I
11 think it will be less controversial.

12 We did put up a calendar demonstrative. We
13 anticipate walking through -- because we're about to go
14 through several dates in a row, to keep track of them. We're
15 happy to show any defense counsel. We have some plaques of
16 what we're going to put up. If there's any questions about
17 them, I have them up right now and it will take a minute for
18 anyone to look at it.

19 THE COURT: Yes, show them those now, just because
20 the way it's positioned, I don't think the defense can see it
21 from where they are, nor can I actually read it from where I'm
22 sitting.

23 MR. HEEREN: I'm sorry, I didn't hear that.

24 THE COURT: Just show the defense the plaques that
25 you're going to put up there, in case there's any objections.

1 MR. LUSTBERG: Can I just...

2 THE COURT: Yes, go ahead.

3 (Pause in the proceedings.)

4 THE COURT: Okay, folks, we're going to get the jury
5 now.

6 MR. HEEREN: Your Honor, should we bring the witness
7 back in?

8 THE COURT: No, let's go ahead and get the witness.

9 (Pause in the proceedings.)

10 (The witness resumes the stand.)

11 **HONGRU JIN**, called as a witness, having been previously first
12 duly sworn/affirmed, was examined and testified first duly
13 sworn/affirmed:

14 MR. HEEREN: Can I go on the record for one second?

15 THE COURT: Yes.

16 With the witness here?

17 MR. HEEREN: I will just say, for the record, we've
18 taken down one of the demonstratives that's unrelated to the
19 witness.

20 THE COURT: Okay.

21 (Pause in the proceedings.)

22 THE COURTROOM DEPUTY: All rise.

23 (Jury enters the courtroom.)

24 THE COURT: Please be seated, everyone.

25 Welcome back, ladies and gentlemen. Hope you had a

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1 good lunch. We are going to continue with the examination of
2 the witness by Mr. Heeren.

3 MR. HEEREN: Thank you, Your Honor.

4 DIRECT EXAMINATION (Continued)

5 BY MR. HEEREN:

6 Q Good afternoon, Mr. Jin.

7 A Good afternoon.

8 MR. HEEREN: Good afternoon, ladies and gentlemen.

9 Q Mr. Jin, did Zhu Feng ask you to buy anything before he
10 arrived in the United States?

11 A Yes, he told me to buy two telephone cards.

12 MR. HEEREN: Your Honor, I believe the interpreter
13 requires a microphone.

14 THE COURT: Oh, right.

15 MR. HEEREN: Could the interpreter please repeat the
16 answer?

17 THE INTERPRETER: Yes.

18 He told me to buy two telephone cards.

19 Can you hear me all right?

20 MR. HEEREN: Yes, I am. Thank you, Ms. Wu.

21 Q When you say "telephone cards," are you referring to sim
22 cards?

23 A IM sim card.

24 MR. HEEREN: Clarification for the interpreter.

25 Is the witness saying S-I-M card?

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1 A That's correct.

2 Q What do you understand the sim card to be?

3 A The sim card is used to put into the telephone. That
4 will enable someone to make telephone call, go online, send
5 instant messages and also videoconference.

6 Q Did you end up buying sim cards for Johnny Zhu?

7 A Yes, I did purchase two, two of them.

8 Q Where did you get these two sim cards?

9 A I was a tour guide at the time, I purchased two of them
10 from my friend.

11 Q When you say "from your friend," do you mean -- did you
12 buy it from a store?

13 A No.

14 Q Was -- is your name associated with the sim cards you
15 purchased?

16 A No.

17 Q So does using those sim cards allow you to talk on the
18 phone without it being associated with your name?

19 A That's correct.

20 Q I want to direct your attention to what's been admitted
21 as Government Exhibit 807F, Mr. Jin. At page 7 for
22 Ms. McMahon.

23 And, Mr. Jin, if you want to look on, you have
24 Government Exhibit 807A in front of you still; is that right?

25 A Yes. I have it.

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1 Q And just directing your attention to the first blue chat
2 message.

3 And this message was sent on April 1st, 2017; is
4 that right?

5 A Yes.

6 Q And is this what you were referencing in your earlier
7 testimony about Zhu Feng asking you to buy two sim cards?

8 A Yes.

9 MR. HEEREN: We can close the call out, please.

10 Q Directing your attention to the last message from you on
11 that page, and the first message on the next page.

12 MR. HEEREN: I don't know if we're able to show them
13 both.

14 Can you please call up the last message on the
15 left-hand side? And the first message on the right-hand side
16 on the next page?

17 (Exhibit published.)

18 Q And you wrote: Does it need to be able to call China; is
19 that right?

20 A Yes.

21 Q And Johnny confirms that it does need to be able to call
22 China; is that right?

23 A Yes.

24 Q Where did you purchase these two sim cards from your
25 friend? Where were you when you purchased them?

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1 A New York.

2 Q Where specifically in New York?

3 A In the vicinity of where I live, in Flushing.

4 MR. HEEREN: You can take that down, please,
5 Ms. McMahon.

6 Q So I believe your earlier testimony was that you were
7 supposed to pick up Zhu Feng and Tu Lan from Newark Airport on
8 April 3rd, 2017. Is that accurate?

9 A Yes.

10 Q And did that actually happen?

11 A Yes.

12 Q And who did you, in fact, pick up?

13 A I pick up Zhu Feng and Tu Lan, the two of them.

14 Q How did you get to Newark Airport to pick up Zhu Feng and
15 Tu Lan?

16 A I drove my own vehicle to go there.

17 Q And where did you drive from?

18 A From my home, Flushing.

19 Q What did you do after you picked up Zhu Feng and Tu Lan?

20 A I took them to eat some dishes.

21 I took them back to the hotel.

22 Q When you say "back to the hotel," let me -- where did you
23 go from the airport?

24 A Go to eat first, and then return to the hotel.

25 Q When you say --

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1 Interpreter's clarification, is he saying return to
2 the hotel?

3 A That's correct.

4 Q Okay. Did you go to the hotel before that, or was that
5 the first time?

6 A That's the first time.

7 Q Okay. What hotel did you go to with Zhu Feng and Tu Lan
8 for the first time on April 3rd, 2017?

9 A Embassy Hotel.

10 Q Did you stay at that hotel for the duration of this plan?

11 A Based on the plan, I should not stay at the hotel.

12 Q Where else did you stay?

13 A Based on the plan, I should return home to my own home,
14 but I -- in fact, I did stay in the hotel.

15 Q Did you stay at the same hotel or a different hotel?

16 A I stayed with Johnny in the same hotel, in the same room.

17 Q The hotel you stayed at with Johnny, was it the same
18 hotel you stayed at with Tu Lan?

19 A Yes.

20 Q Did you ever change hotels?

21 A Yes.

22 Q What hotel did you change to?

23 A Stay America.

24 Q Did anyone change hotels with you?

25 A Yes. Tu Feng and I changed to that hotel.

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1 Q Okay. I want to show you -- did Tu Lan go to that hotel
2 with you?

3 A No.

4 Q Why did you change hotels?

5 A Yeah, because Zhu Feng and I smoke, so it's more
6 convenient to the -- to that hotel.

7 Q I'd like to show you what's been marked for
8 identification as Government Exhibit 111 and then 112.

9 For the witness only.

10 A All right.

11 (Exhibit published to the witness.)

12 Q Just starting with the first page of Government
13 Exhibit 111. And then scrolling through, please.

14 Have you ever seen Government Exhibit 111, Mr. Jin?

15 A Yes.

16 Q What is depicted in Government Exhibit 111?

17 A It's a hotel.

18 Q And how do you recognize this particular hotel?

19 A It's a big sign with the lettering, it's the logo.

20 Q Is this one of the hotels that you stayed at?

21 A Yes. The first hotel we arrived at first.

22 MR. HEEREN: Okay.

23 Turning to Government Exhibit 112, please. For the
24 witness only.

25 (Exhibit published to the witness.)

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1 MR. HEEREN: And if we can please scroll through the
2 pictures of 112.

3 Q Do you recognize Government Exhibit 112?

4 A I do.

5 Q How do you recognize it?

6 A Well, that's the second hotel I arrived at.

7 Q Is this the one you referred to as "Stay America"?

8 A Yes.

9 MR. HEEREN: The government moves to admit
10 Government Exhibits 111 and 112 into evidence.

11 MR. LUSTBERG: No objection.

12 MS. WONG: No objection.

13 MR. TUNG: No objection.

14 THE COURT: Admitted. You may publish.

15 (Government Exhibits 111 and 112, were received in
16 evidence.)

17 MR. HEEREN: If we can publish Government
18 Exhibit 111 first.

19 (Exhibit published.)

20 MR. HEEREN: And if we can go to, I believe, the
21 second page.

22 Q What hotel is this, Mr. Jin?

23 A That's the first hotel I arrived at.

24 Q And who did you go to that hotel with?

25 A Zhu Feng and Tu Lan.

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1 Q And where is this hotel located?

2 A Close to Newark Airport in New Jersey.

3 MR. HEEREN: And then turning to Government
4 Exhibit 112.

5 (Exhibit published.)

6 MR. HEEREN: And if you can, just do the call out on
7 the right side of the name right there.

8 Q Is this the Extended Stay America that you stayed at?

9 A Correct. That's the second hotel I stayed.

10 Q Okay. You can scroll through those pictures, too.

11 Turning back to Government Exhibit 111.

12 So when you got to the Embassy Suites, did you talk
13 about what was going to happen over the next few days with Zhu
14 Feng and Tu Lan?

15 A Yes.

16 Q What did you talk about?

17 A We talked about, while doing surveillance and monitoring,
18 if there's some -- something unexpected happen and what
19 measure we take to deal with it.

20 Q Where were you when you had this discussion?

21 A In the hotel that was shown in the picture in Tu Lan's
22 room.

23 Q Did you discuss the part of the plan that involved the
24 victim's father?

25 A Yes.

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1 Q And what did you talk about with Zhu Feng and Tu Lan with
2 regard to the father?

3 A That the father would come with a doctor. That the
4 father will do -- will do his best to persuade the son,
5 older -- the official to return to China.

6 Q And what was your part of the operation while the father
7 was doing that?

8 A Well, I will be responsible in surveilling the house. If
9 the owner of the house contacted the official, then I would
10 follow him. And then if not, then follow other plans.

11 Q Was anyone else supposed to be doing -- was anyone else
12 supposed to be following or otherwise doing surveillance?

13 A Yes.

14 Q Who is that?

15 THE COURT: Sustained.

16 A A private investigator.

17 Q And did you come to learn that during this hotel meeting
18 before or after?

19 A While we were at the hotel discussing, I knew that there
20 would be a private investigator.

21 Q I want to show you what's -- a disc that's marked for
22 identification only as Government Exhibit 704 on the ELMO.

23 Do you know what's contained on the disc labeled
24 Government Exhibit 704?

25 One second.

JIN - DIRECT - MR. HEEREN

1 THE COURT: Are you waiting for them?

2 THE COURTROOM DEPUTY: I'm sorry. I'm sorry.

3 (Exhibit published to the witness.)

4 Q Mr. Jin, can you now see what's on -- can you see
5 something on your screen now?

6 A Yes, I can.

7 Q All right. Do you know what's contained on Government
8 Exhibit 704?

9 A It's a part of the recording of what's being discussed at
10 the hotel room.

11 Q Okay. And you say "what's being discussed," are you
12 referring to the meeting between yourself, Zhu Feng and Tu Lan
13 that you just testified about?

14 A Yes.

15 Q How do you know that that recording is contained on
16 Government Exhibit 704?

17 A My signature's on it, and also it's a note that said what
18 it was for. I wrote it.

19 Q Okay. Did you listen to the recording contained on this
20 disc that you signed?

21 A Yes, I did.

22 Q And just to be clear, where was this recorded, and when
23 was this recorded?

24 A It was on the same day I discussed previously while we
25 were discussing, and it was -- it took place in Tu Lan's room.

JIN - DIRECT - MR. HEEREN

1 Q Did you make this recording?

2 A No. Not me.

3 Q Do you know who recorded it?

4 A In my opinion, it's Zhu Feng.

5 Q Why do you think Zhu Feng recorded this portion of your
6 meeting?

7 A So in the middle of the conversation, Zhu Feng and I left
8 the room, which there was not there, and Tu Lan was also not
9 there, so I know that it's not possible for Tu Lan to record
10 it, so I think it's Zhu Feng who recorded it.

11 Q Let me see if I can understand that.

12 So you're saying you did not record it.

13 A Yes.

14 Q Part of the conversation happened outside of the presence
15 of Tu Lan.

16 A Yes.

17 Q And so you reasoned that the only person who could
18 possibly have recorded a conversation of the three of you, and
19 a conversation of just you and Zhu Feng is Zhu Feng?

20 A Yes. That's what I mean.

21 MR. HEEREN: Your Honor, the government --

22 Q Is this a true and accurate depiction, reflection of
23 the -- withdrawn.

24 Is this a fair and accurate recording of a portion
25 of the conversation you had with Zhu Feng and Tu Lan on

JIN - DIRECT - MR. HEEREN

1 April 3rd, 2017?

2 A Yes.

3 MR. HEEREN: Your Honor, the government moves to
4 admit Government Exhibit 704, as well as 704A, which is a
5 stipulated translation.

6 MR. LUSTBERG: I'd like to be heard at sidebar.

7 THE COURT: Okay.

8 (Continued on the next page.)

9 (Sidebar conference.)

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SIDEBAR CONFERENCE

1 (The following occurred at sidebar.)

2 MR. LUSTBERG: Judge, based on the testimony we just
3 heard, this witness did not make the recording. He said that
4 what -- he heard it, and it's a fair and accurate
5 representation of a part of the conversation. But I don't
6 think that that's sufficient to authenticate the recording as
7 a whole.

8 We've only had, I think, ever excerpts of it. We've
9 never understood until this moment who it was that made the
10 recording, which I think is an important fact in understanding
11 whether it's authentic, whether it's an accurate recording of
12 what happened, whether it was tampered with. You know, this
13 has only been a mystery recording in this case, and I'm
14 concerned that we don't have -- there's not an adequate basis
15 to admit it at this point.

16 MR. HEEREN: Your Honor, just to clarify two factual
17 points.

18 One is, this is the complete recording that the
19 government has and it's a complete recording -- we provided
20 that same exact recording to defense counsel. I don't think
21 he was suggesting otherwise, but for clarity.

22 The second point is, I understand the witness to be
23 saying that it's a portion of the conversation, because as you
24 would hear, it starts in the middle of them speaking, not that
25 there's excerpts here and there.

SIDEBAR CONFERENCE

1 I can elicit from the witness that it's a continuous
2 recording, to the extent there's any question about that, but
3 I would submit that the larger point is it has been
4 authenticated, which it just has to be shown to be what the
5 witness said it is.

6 THE COURT: And the witness was present for the
7 entire conversation that's on the recording?

8 MR. HEEREN: Yes.

9 THE COURT: You don't have to go any further.

10 I don't view this as different from a photo that
11 someone says, yes, that's a fair and accurate depiction of
12 what happened, that I was present at or saw, so I don't view
13 this as any kind of authenticity issue, and it seems relevant.
14 And I guess that's all I would say.

15 There are statements in it, I guess, that one can
16 argue are hearsay, but that's a different issue. But I
17 presume they're not necessarily offered for their truth as
18 much as explaining what the verbal acts occurred between these
19 alleged co-conspirators, or if they are co-conspirator
20 statements, they would be admissible. So I'm going to allow
21 in the exhibit.

22 But why don't you go ahead and just make clear that
23 there was more of the conversation. I think that was clear
24 before, but that wasn't recorded.

25 MR. HEEREN: Yes, Your Honor.

SIDEBAR CONFERENCE

1 THE COURT: Okay.

2 (End of sidebar conference.)

3 (Continued on the next page.)

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JIN - DIRECT - MR. HEEREN

1 DIRECT EXAMINATION (Continued)

2 (In open court; Jury present.)

3 MR. LUSTBERG: I just want to be clear that I did
4 not actually get the discussion at sidebar, so to the extent
5 that that's used, there's no objection.

6 THE COURT: So no objection.

7 But go ahead, Mr. Heeren, ask the other question we
8 discussed.

9 MR. HEEREN: Yes, Your Honor. And we're going to
10 very quickly switch our interpreters, if that's all right.

11 THE COURT: Yes.

12 (Pause in the proceedings.)

13 MR. HEEREN: Ms. Ng, if you can move it up just a
14 bit, please?

15 THE INTERPRETER: Is it better now?

16 MR. HEEREN: Yes. Thank you.

17 BY MR. HEEREN:

18 Q Mr. Jin, a quick clarification about the recording.

19 A Okay.

20 Q You've reviewed the entire recording contained on
21 Government Exhibit 704?

22 A Yes.

23 Q Does that recording, from what you heard, start in the
24 middle of a discussion?

25 A Yes.

JIN - DIRECT - MR. HEEREN

1 Q And from that point forward, is it -- from your
2 recollection, is that recording continuous until the end?

3 A Yes.

4 However, I did not hear the previous question
5 clearly, do you mind repeating the question?

6 Q Yes.

7 At the beginning of the recording, does it sound
8 like -- well, from your recollection, does the recording begin
9 in the middle of a conversation?

10 A Yes.

11 Q And is that what you referred to when you mentioned that
12 this is a partial recording?

13 A Yes.

14 Q Okay.

15 Your Honor, at this time we'd like to publish what
16 was just admitted as Government Exhibit 704A for the jury,
17 which is the English translation.

18 And I'm going to ask the witness several questions
19 about the recording, and so I'm going to ask Ms. McMahon to
20 play some of those, and I'll ask the question afterwards.

21 THE COURT: Okay. You can publish 704A.

22 So you said 704 is admitted, right?

23 MR. HEEREN: I moved to admit 704 and 704A.

24 THE COURT: Oh.

25 MR. HEEREN: Pursuant to the stipulation. I don't

JIN - DIRECT - MR. HEEREN

1 know if was on record whether the Court had ruled on it.

2 THE COURT: Okay, so both are admitted.

3 You can publish.

4 (Government Exhibits 704 and 704A, were received in
5 evidence.)

6 (Exhibit published.)

7 MR. HEEREN: So, Ms. McMahon, if you can please blow
8 up on page 1 the portion of the discussion that begins with
9 "Jin" that starts "so if I mean," to the end of the page?

10 And, Mr. Jin, I'm going to play the first ten
11 seconds, or I'm going to ask Ms. McMahon to play the first ten
12 seconds of Government Exhibit 704, and I'm going to ask you a
13 question.

14 And correction, I'm going to play the first 34
15 seconds.

16 (Audio played; Audio stopped.)

17 Q Mr. Jin, were you able to hear that, or do you need it to
18 be a little bit louder?

19 A No, that's fine. I can hear it clearly.

20 Q Who are the people, the two individuals, we hear speaking
21 in this portion of the recording?

22 A It was me and Tu Lan.

23 Q And you say: The person who's coming tomorrow or the day
24 after tomorrow pays a sudden visit to the person we are trying
25 to locate here, who has no idea, say, no warning about it, or

JIN - DIRECT - MR. HEEREN

1 he doesn't know or hasn't received any notice, then, for sure,
2 the local person will have some thoughts about that.

3 What were you expressing -- what were you talking
4 about there?

5 A As in the father personally paid a visit to the U.S. and
6 the former official did not know about it, then the official
7 would definitely have some thought about it why my dad would
8 come and don't tell me about it that is the context.

9 (Continued on the following page.)

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H. Jin - direct - Heeren

1 MR. HEEREN: And if I to could ask the interpreter
2 to move the mic up a bit more, please. I'm sorry.

3 DIRECT EXAMINATION

4 BY MR. HEEREN: (Continuing)

5 Q Would it be fair to say you were concerned about the
6 target's reaction to what you were going to do?

7 A Yes.

8 Q Why?

9 A It was because I was afraid that the target would have
10 some defense measures.

11 Q Tu Lan responds, in part, "Furthermore, he himself does
12 not want to come here either."

13 What did you understand Tu Lan to be talking about.

14 A My understanding at the time was that the father, he did
15 not really want to come to the U.S.

16 MR. HEEREN: I now want to play for you, again, Ms.
17 McMahon, play from the 1:15 minute mark to the 2:30 minute
18 mark and that is the end of page 2 to page 4.

19 (Audio playing.) (Audio stopped.)

20 Q Mr. Jin, during some of this portion of the recording,
21 who is speaking for the most part?

22 A It was me, Zhu Feng, Tu Lan, the three of us.

23 MR. HEEREN: You can stop right there. Lower it a
24 little bit, please. Thank you.

25 Q During this portion of the conversation, did Tu Lan --

H. Jin - direct - Heeren

1 what language was Tu Lan -- withdrawn.

2 What language or dialect was Tu Lan and Zhu Feng
3 speaking at this point?

4 A They were speaking in Mandarin and Hubei dialect.

5 Q And how much, if at all, do you understand the Hubei
6 dialect?

7 A 10 percent.

8 Q Okay. What, if any, parts of that discussion did you
9 understand?

10 A Basically, I could understand what was said in Mandarin,
11 however, I could not understand what they said in the Hubei
12 dialect.

13 Q Did you hear them using a name at all during that portion
14 of the discussion?

15 A Yes.

16 Q What name did you hear them using?

17 A It was Mike or Michael. I did not quite understand it.

18 Q And in 2017, on April 3, 2017, who, if anyone, did you
19 understand Mike or Michael to be a reference to?

20 A That should be the private detective.

21 Q And when you say should be, are you -- do you mean that's
22 what you recall?

23 A Yes. Based on my recollection, it should be him.

24 Q I want to direct your attention now to a little bit more
25 of that same recording.

H. Jin - direct - Heeren

1 MR. HEEREN: And if we could play from -- we will
2 back up a few seconds to 2:26 and play it to 2:46 of
3 Government Exhibit 704.

4 (Audio playing.) (Audio stopped.)

5 Q Okay. Mr. Jin, directing -- first directing the jury's
6 attention to about -- well, withdrawn.

7 Mr. Jin, what was this portion -- what language was
8 this portion of the conversation spoken in?

9 A This was Mandarin and the Hubei dialect.

10 Q And is that you here participating in part of this
11 conversation?

12 A Yes, I did.

13 Q And you say at one point, oh, there is another group of
14 people. Do you remember that?

15 A I remember.

16 Q And then a few lines down, you say you must tell the
17 other party that I am also involved in this?

18 Do you remember saying that?

19 A I remember.

20 Q So what did you mean by your question this is another
21 group of people?

22 A It was because in the beginning, when I accepted the
23 task, the private detective was not mentioned. When we were
24 discussing the plan, as in this recording, I learned about
25 there was another group of private detectives doing the same

H. Jin - direct - Heeren

1 thing.

2 Q And why did you say you must tell the other party that
3 I'm also involved?

4 A It was because I don't want the other group to
5 misunderstand that I am another party. I want them to know
6 that I'm also doing the same thing as they were doing.

7 Q And Johnny Zhu says he'll do so; is that accurate?

8 A Yes.

9 Q Now, did you also hear a reference to a Captain Hu, or a
10 Hu?

11 Excuse me. Withdrawn.

12 Did you also hear a reference to a person name Hu,
13 H-U.

14 A Yes.

15 Q What's your understanding of what Johnny Zhu was talking
16 about there?

17 A I don't quite understand this person. I've never heard
18 of this person.

19 MR. HEEREN: I want to move on to minute 3 and 40
20 seconds, which is page 6 of the transcript and I'm going to
21 play until just about 3:55, please.

22 (Audio playing.) (Audio stopped.)

23 Q And Mr. Jin, during this portion of the recorded meeting,
24 Johnny Zhu says, "I tried this angle with Captain Hu last
25 time. If you don't park on this road, there are trees around

H. Jin - direct - Heeren

1 his house here, here, and here."

2 And then later, in that same portion, Zhu Feng said,
3 "Or if you want to watch from this road, you have to park in
4 front of this house. From this house, everything is blocked
5 and you will not see anything."

6 What did you understand Zhu Feng to be talking about
7 at this point in the conversation.

8 A He was talking about how to survey this house, including
9 previously Zhu Feng had an action to visit the place, to
10 observe the place.

11 MR. HEEREN: Okay. Now, I want to play a bit of a
12 longer section which is going to begin at page 6, right after
13 what we just played, Ms. McMahon, if you could play to that to
14 about 6 minutes and 57 seconds.

15 (Audio playing.) (Audio stopped.)

16 Q Mr. Jin, could you tell us generally what you, Zhu Feng,
17 and Tu Lan were talking about during this portion of the
18 conversation?

19 A It was about how to perform the surveillance on the
20 house, including what if something unexpected happen,
21 incidents that happen, and what we should do to resolve it.

22 MR. HEEREN: And I want to direct the witness and
23 the jury to page 9, the portion that, if we can, Ms. McMahon,
24 blow up the portion that begins "As for this spot," that whole
25 text.

H. Jin - direct - Heeren

1 Q And Zhu Feng, at this part of the recording, mentions how
2 I most often stayed at this spot. And then later mentions I
3 have never exposed myself at this location except only ones,
4 when I asked to take some pictures.

5 THE COURT: "When I was asked to take some
6 pictures."

7 MR. HEEREN: "When I was asked to take some
8 pictures." Thank you.

9 Q What did you understand Zhu Feng to be talking about
10 during this portion of the recording?

11 A Zhu Feng was talking about his experience when he was
12 performing the surveillance previously.

13 Q And when we talk about previous surveillance, did you
14 understand Zhu Feng to be talking about prior surveillance of
15 the same person or a different person?

16 A The same person.

17 MR. HEEREN: I want to direct your attention now and
18 ask Ms. McMahon to play from minute 8:15, 8 minutes and 15
19 seconds, to minute 9, which begins at the end of page 11, the
20 very end of page 11, I believe.

21 (Audio playing.) (Audio stopped.)

22 Q Mr. Jin, directing your attention to the top of page 12,
23 Ms. McMahon, if you could blow up the part where it says,
24 "It's because -- now it's." And on the recording Tu Lan
25 mentions you are the backup plan. And then it says, "Because

H. Jin - direct - Heeren

1 it is his father who is coming and if his father has a good
2 talk with him, he will contact us voluntarily."

3 MR. HEEREN: And then, Ms. McMahon, if you can keep
4 that blown up and blow up the portion a little bit below it
5 where it says, "And we are concerned."

6 Q And in this portion Tu Lan says, "We are concerned that
7 he will not contact us and that's why there is the backup
8 plan."

9 What did you understand Tu Lan to mean by "You are
10 the backup plan?"

11 A First of all, for them -- no. Let me start again.

12 According to the original plan, under the best
13 condition, the father would have a nice, smooth talk with the
14 official and the official will contact Tu Lan proactively,
15 then I will become the backup. If that did not happen, if she
16 was not contacted, then I would follow up, I will stalk that
17 person and get his license plate number, et cetera.

18 Q And were you the only one involved in the backup plan?

19 A I don't think so.

20 Q Who else, in your understanding, was part of the backup
21 plan?

22 A The private detective.

23 Q I want to direct your attention now to page 23.

24 MR. HEEREN: If Ms. McMahon could play from minute
25 15:14 to minute 15:56 of Government Exhibit 704, which is all

H. Jin - direct - Heeren

1 of page 23.

2 (Audio playing.) (Audio stopped.)

3 Q So, generally, what's being discussed during this portion
4 of the recording, Mr. Jin?

5 A That was my conversation with Zhu Feng, only the two of
6 us. That was during the plan and it happened after we left Tu
7 Lan's room. It mentioned two days later another group of
8 people would arrive that would be the father and the doctor.
9 To clarify, I meant the day after.

10 Q When you say the day after, you mean the day after
11 tomorrow, so two days from this recording?

12 A Yes.

13 MR. HEEREN: And, so, we can blow it up for the
14 jurors, if we can blow up from exactly where you have it down
15 to "two people."

16 If we can just call out the next two lines, "so do
17 I, and that one is a doctor."

18 And then if we can blow up the portion after that.
19 If you go up a little bit more, please, or down, sorry. Right
20 there. Can we make it bigger, so we can have the question
21 above. Thank you.

22 Q So, Mr. Jin, during this portion of the recording, you
23 asked "Will that person go inside too?"

24 What were you talking about here?

25 A I was talking about whether the doctor will enter the

H. Jin - direct - Heeren

1 house or not.

2 MR. HEEREN: Sorry, I didn't hear the interpreter.

3 A I was talking about whether the doctor will enter the
4 house or not.

5 Q And Zhu Feng says that the doctor will not go into the
6 house. Is that what is reflected in the recording?

7 A Yes.

8 MR. HEEREN: I want to now direct your attention to
9 another portion of Government Exhibit 704.

10 And if Ms. McMahon you could play beginning at
11 minute 36 and 18 seconds, which is page 50 of the transcript
12 marked 704-A. And if you could play until 37 minutes and 15
13 seconds.

14 (Audio playing.)

15 MR. HEEREN: Ms. McMahon, if you could call out just
16 the portion where Zhu says, "There's nothing around here."

17 Q And Zhu Feng says, in part, "I stayed here last time, I
18 stayed here for a fucking month, at least for 60...20 plus
19 days, if not 30, if not 30, every time, more than more week,
20 more than one we can."

21 And then you ask, in the recording --

22 MR. HEEREN: If you could blow it up, please. Just
23 to the next two lines, please. Thank you.

24 Q "Who paid for the hotel?"

25 And Zhu Feng writes -- says, "CCP paid,

H. Jin - direct - Heeren

1 unintelligible paid. I paid upfront. They reimbursed me when
2 I went back."

3 Is that what you recall discussing with Mr. Zhu
4 Feng?

5 A Yes.

6 Q What -- do you have an understanding of who or what the
7 CCP is?

8 A Through the recording and the English version and I
9 compared them, I come to understanding that CCP means the
10 Communist Party.

11 Q Is it the Communist Party of any particular country?

12 A The Chinese Communist Party.

13 Q So what did you understand Zhu Feng to be saying there?

14 A Regarding the statement here, Zhu Feng meant that he
15 expressed that he did come here for surveillance before and he
16 was here for between 20 to 30 days, and I asked Zhu Feng who
17 paid for the hotel fees. Zhu Feng said he paid in advance and
18 then he got reimbursement, so it proved that he got
19 reimbursement from the Communist Party. So it proved that Zhu
20 Feng had been here before to perform the surveillance.

21 MR. HEEREN: And, Your Honor, I'm happy to continue,
22 I know we are getting close to our break. I'm transitioning
23 to a new topic.

24 THE COURT: I was going to break at 3:45, but if you
25 think this makes more sense.

H. Jin - direct - Heeren

1 MR. HEEREN: This is a short topic.

2 THE COURT: All right. Go ahead.

3 MR. HEEREN: We can take this down.

4 If we could please call back up what was previously
5 admitted at Government Exhibit 807-F at page 12.

6 Q And just to re-orient the jury, are these chat
7 communications between yourself and Johnny Zhu?

8 A Yes.

9 Q And I want to direct your attention --

10 MR. HEEREN: And if you could please call out, Ms.
11 McMahon, the two images sent on April 4, 2017 at 11:15 p.m.

12 Q What are these?

13 A The photo at the top, the people are older, these are the
14 parent of the official and the bottom one, they are younger
15 folks, that is the couple, the official.

16 Q Why was Johnny Zhu sending this to you?

17 A According to the audio we just heard, the goal was to
18 persuade the man to return to China and that will be done by
19 the older man at the top who flew here.

20 Q I'm sorry, I didn't hear the last part.

21 A It will be done by the man at the top who flew here.

22 Q And I want to show you -- one second. I do want to move
23 to another topic, but I think it is going to be a bit of a
24 longer topic?

25 THE COURT: So let's take our break now. Ladies and

H. Jin - direct - Heeren

1 gentlemen, be ready to go at 4:00 p.m. Have a great break.
2 Don't talk about the case. Keep an open mind. Don't do any
3 research.

4 THE COURTROOM DEPUTY: All rise.

5 (Jury exits the courtroom.)

6 THE COURT: You can step down, Mr. Jin, and leave
7 the courtroom.

8 Everyone else is free to go until 4:00.

9 (Recess taken.)

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1 (In open court; Jury not present.)

2 THE COURT: Mr. Heeren, let me just say one thing
3 before the jury comes back in. I didn't give the limiting
4 instruction regarding the demonstrative before and I will now
5 before you resume. And I think the only one that's being
6 shown right now is the one that was the subject of
7 Mr. Lustberg's comments, right?

8 MR. HEEREN: Yes, your Honor, and the April calendar
9 over here.

10 THE COURT: Right. For now the calendar seems
11 inoffensive enough.

12 THE COURTROOM DEPUTY: All rise.

13 (Jury enters courtroom.)

14 THE COURT: Please be seated everyone.

15 Ladies and gentlemen of the jury, I can't help but
16 notice every time you come out here, you have more and more
17 clothing on. I do realize Alternative Number 5 we have to get
18 her a parka soon. I am sorry it's a little chilly. We don't
19 have much control over the climate stuff in the courtroom.

20 But I did, before we let Mr. Heeren resume his
21 examination, want to give you an instruction about the
22 demonstratives, and that's those poster boards that are in
23 front of you. A demonstrative is essentially an exhibit that
24 a party uses that is not evidence in and of itself but it's
25 used to display evidence that is admitted, according to one

1 party's theory of the case or another, or to aid you as here,
2 in part, to refer back to certain names.

3 Now here in particular, as you know, there are a lot
4 of names that sound very similar and can be very confusing, so
5 the board that was the subject of a lot of discussion about
6 where to place it, clearly has a number of names of
7 individuals who have been referred to during the trial and so
8 it is helpful for you to be able to reference who those folks
9 are on that board.

10 But to the extent that the government has arranged
11 the evidence on the board consistent with their theory, that
12 is not evidence in and of itself, and the defense obviously
13 disputes the government theory. So you shouldn't take as
14 evidence any ordering or positioning of the images on the
15 board per se, other than to the extent the government later
16 argues that that positioning or structuring of the board is
17 relevant to your consideration as an argument, but I'm letting
18 the government use that board for now as an aid to you
19 throughout the trial. And ultimately, it's going to be up to
20 you to decide what value or weight to give any of the evidence
21 and what it means standing alone or in relation to other
22 evidence. Okay.

23 So with that, Mr. Heeren, you may continue.

24 MR. HEEREN: Yes, thank you, your Honor.
25

H. JIN - DIRECT - MR. HEEREN

1 DIRECT EXAMINATION (Continued)

2 BY MR. HEEREN:

3 Q Mr. Jin, I want to jump ahead a bit in time.

4 A All right.

5 MR. HEEREN: Ms. Wu, could you please move the mic
6 up a bit.

7 THE INTERPRETER: Hello, hello.

8 MR. HEEREN: That's better. Thank you.

9 Q In September of 2017, were you interviewed by the FBI?

10 A Yes.

11 Q Were you asked about the events of April 2017 involving
12 Zhu Feng, Tu Lan and the plan to bring the father from China
13 to the United States?

14 A Yes.

15 Q In September of 2017, did you tell the FBI the truth
16 about your involvement in this plan?

17 A No, I concealed part of the truth.

18 Q Did you tell them that you knew you were working for the
19 Chinese government?

20 A No.

21 Q What did you tell the FBI at that time in September of
22 2017?

23 A I told the FBI I'm only a tour guide, I'm a driver. I do
24 not know anything else.

25 Q Was that true?

H. JIN - DIRECT - MR. HEEREN

1 A No.

2 Q Before meeting with the FBI in September 2017, did you
3 ever discuss with Johnny Zhu what you would say to law
4 enforcement?

5 A Yes.

6 Q And so what did you discuss with Zhu Feng -- or excuse
7 me, withdrawn. What did you discuss with Johnny Zhu on this
8 topic?

9 A Yeah, I discussed with Johnny Zhu and -- well, through
10 WeChat if someone asks about it, I'm only a tour guide and I
11 do not know anything else.

12 Q And did you do what Zhu Feng proposed you do and delete
13 some of your WeChat communications?

14 A Yes.

15 Q And did you tell law enforcement you were just a tour
16 guide?

17 A Yes.

18 Q When were you arrested for your involvement in these
19 crimes?

20 A In October 20th.

21 MR. HEEREN: Clarification for the interpreter, 20th
22 as in the day or 2020 the year?

23 A 2020.

24 Q On June 14th, 2021, did you plead guilty to crimes
25 related to this case?

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1 A Yes.

2 Q Did you plead guilty because you are guilty?

3 A Yes.

4 Q Did you plead guilty pursuant to an agreement?

5 A Yeah, there is an agreement.

6 Q What is that agreement called?

7 A It's a cooperation agreement with the government.

8 Q How many charges did you plead guilty to?

9 A I pleaded guilty to two counts.

10 Q What charges did you plead guilty to?

11 A The first count is acting as a foreign government's
12 agent. And the second count is that to -- across state line
13 to surveilling and follow -- stalking other people.

14 Q Did you plead guilty to a conspiracy to commit both of
15 those crimes, or the substantive offense?

16 A Substantive count also conspiracy.

17 MR. HEEREN: I'd like to show you what's been marked
18 for identification as 3500HJ-197 to 205. And I'm going to
19 if -- Ms. McMahon, if you could flip through the pages for the
20 witness please. Just staying on the last page now.

21 Q Do you recognize this document?

22 A I do.

23 Q What is it?

24 A This is the agreement you just mentioned.

25 Q How do you recognize it?

H. JIN - DIRECT - MR. HEEREN

1 A With my signature here.

2 Q At the time of your guilty plea -- well, withdrawn. What
3 language is the agreement in?

4 A English.

5 Q At the time of your guilty plea -- withdrawn. At or
6 before the time of your guilty plea, did you have someone
7 explain this to you in Chinese?

8 A Yeah, with the writing in the agreement someone explain
9 and interpreted entirely for me.

10 Q Have you been sentenced yet on any of the charges you
11 pled guilty to in June of 2021?

12 A No.

13 Q You mentioned that you pled guilty pursuant to a
14 cooperation agreement with the government. What are you
15 required to do under the cooperation agreement?

16 A To tell the truth, to give all facts, and also to
17 cooperate with the government about attending meetings and
18 such, yes, such things.

19 Q Does it also require you to testify at trial when asked
20 to do so?

21 A Yes.

22 Q Does it require you to give any particular testimony?

23 A No.

24 Q In your cooperation agreement is there a paragraph that
25 indicates that if you abide by its terms, you will not be

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1 prosecuted by the government for crimes that you previously
2 told the government about?

3 A Yes.

4 Q What do you hope to receive from the government if you
5 meet all of their requirements of your agreement?

6 A I hope that if I abide by the terms, the government would
7 write a letter for me at the time of the sentencing to submit
8 to the judge and the judge give consideration to that.

9 Q I just want to unpack that a little bit.

10 A All right.

11 Q Who writes this letter?

12 A The government.

13 Q Who is that letter going to be sent to if you receive
14 one?

15 A To the judge.

16 Q What do you understand, generally, the letter will
17 contain if you receive this letter?

18 A Well, to a plea leniency with the judge.

19 Q When you say "leniency," do you mean request a lower
20 sentence?

21 A Yes. Yes.

22 Q Will the letter request any specific sentence?

23 A No.

24 Q What is the maximum possible sentence you could receive
25 for the crimes you've pled guilty to?

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1 A Two counts together it could be 10 years.

2 Q Is that five years for each count?

3 A Yes.

4 Q What is the minimum sentence you could receive when
5 you're sentenced?

6 A Zero.

7 Q Can the judge still sentence you up to 10 years in prison
8 even the government provides this letter that you want?

9 A Yes.

10 Q Will the government recommend any specific sentence to
11 the Court at the time of sentencing if you receive this
12 letter?

13 A No.

14 Q Can the government promise you a specific sentence
15 according to the terms of this agreement?

16 A No, they can't.

17 Q Who decides your sentence?

18 A The judge.

19 Q Sitting here today, do you have any idea of what your
20 sentence will be?

21 A I am not sure.

22 Q Does your sentence -- does your sentence depend -- sorry
23 withdrawn. Going back to the last question, when you say
24 you're not sure, do you mean you're not sure what sentence you
25 will receive?

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1 A Yes, I'm not sure how many years of terms I will receive.

2 Q Does your sentence depend in any way on whether any of
3 the defendants in this trial are convicted?

4 A I don't think so. In my own opinion, no, that has
5 nothing to do with it. My sentence has something to do with
6 my own case.

7 Q And what does your sentence and whether you receive a
8 letter depend on? I'm going to withdraw that question and
9 clarify it.

10 A Okay.

11 Q So going back one question, does whether or not you
12 receive a letter from the government depend in any way on
13 whether the defendants in this trial are convicted?

14 A No.

15 Q What does it depend on?

16 A I think my sentence -- it is depending on three points.
17 Point number one whether I tell the truth, give the facts.
18 Number two, if I appear in the meeting that the government
19 require me to attend, and also whether I testify in court.

20 Q Does it also depend on whether or not you commit any
21 further crimes?

22 A Yes.

23 Q And if you commit any further crimes, do you understand
24 that you will not receive a letter pursuant to this agreement?

25 A I do.

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1 Q You said previously that your cooperation agreement
2 requires you to tell the truth. What happens if you don't
3 tell the truth today?

4 A I won't get this letter.

5 Q And at that point would you be able to withdraw your
6 guilty plea?

7 A No, I cannot.

8 Q So you'd be stuck with your guilty plea and no letter
9 requesting leniency to the judge?

10 A Yes.

11 Q Okay. I want to turn to another topic.

12 Directing your attention back to April 2017.

13 A All right.

14 Q The meeting at the hotel that you previously testified
15 about occurred on April 3rd, 2017. Do I have your testimony,
16 correct?

17 A Yes.

18 Q What did you do the next day on April 4th, 2017?

19 A I took -- the next day I took Johnny Zhu to a bakery call
20 Panera Bread.

21 Q Why did you take Johnny Zhu to a bakery called Panera
22 Bread?

23 A To meet with a private investigator.

24 Q Where was this Panera Bread located?

25 A In New Jersey state.

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1 MR. HEEREN: I want to show you what's marked for
2 identification as a Government Exhibit 115 for the witness
3 only please.

4 And if, Ms. McMahon, could flip through the pictures
5 for the witness, please. Going back to the first page.

6 Q Mr. Jin, do you recognize what's reflected in
7 Government's Exhibit 115?

8 A I do.

9 Q What is it?

10 A That is the bakery where Johnny Zhu and the private
11 investigator met and I drove Johnny Zhu there.

12 Q Is this a true and accurate depiction of the exterior of
13 the Panera Bread where this meeting occurred as it looked in
14 2017?

15 A Yes.

16 MR. HEEREN: The government moves to admit
17 Government's Exhibit 115.

18 MR. LUSTBERG: No objection.

19 MR. GOLDBERGER: No objection.

20 MR. TUNG: No objection.

21 THE COURT: Admitted. You may publish.

22 (Government Exhibit 115, was received in evidence.)

23 MR. HEEREN: Ms. McMahon, if you could just please
24 click through the pictures now for the jury.

25 Q Around what time of day did you go with Zhu Feng to the

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1 Panera Bread?

2 THE WITNESS: (In English) Around daytime. Sorry.

3 A Around daytime.

4 Q When you say daytime, do you remember what time of day?

5 A Around 12, after 12.

6 Q Did Zhu Feng tell you anything about the meeting at the
7 Panera Bread before you got there?

8 A He just told me that to meet with the private
9 investigator. He did not talk to me other things and he would
10 not tell me about it.

11 Q At this point in time -- withdrawn. What did you do when
12 you got to this Panera Bread?

13 A Okay, Zhu Feng and I entered and Zhu Feng went to buy
14 coffees and I sat down at the table.

15 Q What happened next?

16 A Then Zhu Feng, I don't remember whether he answered the
17 phone or he received a text message, then he went out to meet
18 the investigator; they came in. I sat a different table.

19 Q You sat at a different table than the private
20 investigator and Johnny Zhu?

21 A Yes.

22 Q Why did you do that?

23 A Johnny Zhu requested me to do that.

24 Q Did Johnny Zhu ever tell you why he asked you to do that?

25 A He did not want me to know too much.

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1 Q Did you see the private investigator while you were
2 there?

3 A Yes, I did.

4 Q Do you remember what he looks like?

5 A I don't remember very clearly.

6 Q Do you have a general recollection?

7 A It's a white person. It's a -- he's rather aged.

8 Q Clarification for the interpreter, did he mean somewhat
9 older than himself?

10 A That's right.

11 Q Was this a man or a woman?

12 A Man.

13 Q Approximately how long did Zhu Feng's meeting with the
14 private investigator last?

15 A I cannot be sure about that.

16 Q Do you remember approximately how long it was?

17 A I would say no more than an hour, give and take.

18 Q What did you do -- well, what happened after the meeting
19 concluded?

20 A I do not quite understand your question.

21 Q What did you do after Zhu Feng met with the private
22 investigator?

23 A I think we went again to the house that I supposed to
24 surveil and, you know, went to the vicinity of that place and
25 also discussed other things.

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1 Q So before we get to that, directing you back to the
2 meeting at the Panera Bread, after the meeting concluded, did
3 Zhu Feng tell you anything about what they talked about during
4 this meeting?

5 A No.

6 MR. HEEREN: I want to show the witness what's been
7 marked for identification as Government's Exhibit 707A through
8 D.

9 Q Do you see that Mr. Jin?

10 A I do.

11 Q What is contained on the disk that is labeled
12 Government's Exhibit 707A through D?

13 A It's a monitored recording of the Panera Bread and
14 recording of that meeting.

15 Q When you say monitored recording, do you mean a
16 surveillance video?

17 A The normal video from the business, business people.

18 Q So the cameras that businesses typically have inside of
19 businesses like a Panera Bread?

20 A Yes.

21 Q And how do you know that those videos or clips of those
22 videos are contained on this disk?

23 A My signature is on it and also there is a note and
24 there's a date.

25 (Continued on the next page.)

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1 DIRECT EXAMINATION (Continued)

2 BY MR. HEEREN:

3 Q And are these video clips fair and accurate depictions of
4 surveillance video from the Panera Bread during a time period
5 when you were at in April of 2017?

6 A Yes.

7 MR. HEEREN: Government moves to admit Government
8 Exhibits 707A through D.

9 MR. LUSTBERG: No objection.

10 THE INTERPRETER: Interpreter's clarification.

11 The witness said that it should be -- should be --
12 okay, it should happen in 2017 April, but not specifically
13 April 17.

14 Q Clarification from here.

15 I believe my question was in April of 2017, not
16 April 17, 2017.

17 A Okay.

18 Q So let me -- for the record, let me ask a better
19 question.

20 Was this video taken on -- to your recollection, on
21 April 4th, 2017?

22 A Yes.

23 MR. HEEREN: And, Your Honor, I'm sorry, I didn't
24 hear.

25 THE COURT: Do you now want to move? So any

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1 objection?

2 MR. LUSTBERG: I still have no objection.

3 MR. GOLDBERGER: No objection.

4 MR. TUNG: No objection.

5 THE COURT: So those exhibits are admitted.

6 You may publish.

7 (Government Exhibits 707A through D, were received
8 in evidence.)

9 MR. HEEREN: And while we publish, I think this may
10 be a good time to switch out interpreters, if the Court
11 doesn't mind.

12 THE COURT: No, I don't mind.

13 (Pause in the proceedings.)

14 MR. HEEREN: Ms. McMahon, while we're doing that,
15 can you please publish 707A?

16 (Exhibit published.)

17 MR. HEEREN: Ms. Ng, are you ready to go?

18 THE INTERPRETER: I am.

19 Can you hear me?

20 MR. HEEREN: Please put it higher up.

21 Ms. McMahon, can we please publish 707A for the
22 jury.

23 (Exhibit published.)

24 (Video played; Video stopped.)

25 MR. HEEREN: Ms. McMahon, can you please press play

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1 for us?

2 (Video played; Video stopped.)

3 MR. HEEREN: And, Ms. McMahon, can you just back it
4 up a little? And freeze it with the individual in the middle?

5 Okay, perfect.

6 Q Mr. Jin, who is the person that we see at the counter
7 reflected in this video?

8 A That is Johnny Zhu.

9 Q And just to be perfectly clear, is that the person who's
10 ordering not -- at the counter?

11 A Yes.

12 MR. HEEREN: If we can now play Government
13 Exhibit 707B, as in boy.

14 (Video played; Video stopped.)

15 Q Okay. Mr. Jin, what did we see happen in this video
16 clip, Government Exhibit 707B?

17 A In the beginning, Johnny Zhu went out from the bakery and
18 for a little while, he came back.

19 Q And who do we see in the bottom left-hand corner of the
20 video at this point in time?

21 Is this the end of the video? The very end of this
22 video?

23 A That is the Caucasian private detective.

24 Q Which of the two men is the Caucasian private detective?

25 A The one wearing a black top.

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1 MR. HEEREN: Did the interpreter say "black top"?

2 THE INTERPRETER: Yes.

3 Q And is Zhu Feng the man with the bag slung over his
4 shoulder?

5 A Yes.

6 MR. HEEREN: Can I just quickly go back to
7 Government Exhibit --

8 THE COURT: Mr. Heeren, we have to replace the
9 battery --

10 MR. HEEREN: Yes, Your Honor.

11 THE COURT: -- on the lapel mic.

12 MR. HEEREN: Putting up Government Exhibit 21, which
13 has been admitted, Your Honor.

14 THE COURT: Okay.

15 (Exhibit published.)

16 MR. HEEREN: You can take this down.

17 Can you play now what's an admitted as Government
18 Exhibit 707C.

19 (Video played; Video stopped.)

20 MR. HEEREN: And please play Government
21 Exhibit 707D.

22 (Video played; Video stopped.)

23 MR. HEEREN: I want to show the witness what's been
24 marked for identification as Government Exhibits 103A through
25 103F.

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1 Witness only, please.

2 (Exhibit published to the witness.)

3 Q Did you have a chance to see Government Exhibits 103A
4 through F, Mr. Jin?

5 A Yes, I have finished looking at them.

6 Q What is depicted in Government Exhibits 103A through F?

7 A It's depicting the screenshots of the video that was
8 shown previously, and they contain the appearance of Zhu Feng
9 and the private detective.

10 Q Are these fair and accurate depictions of still images
11 from the surveillance video you previously testified about?

12 A Yes.

13 MR. HEEREN: The government moves to admit
14 Government Exhibit 103A, B, C, D, E, and F into evidence.

15 MR. LUSTBERG: No objection.

16 MS. WONG: No objection.

17 MR. TUNG: No objection.

18 THE COURT: Admitted. You may publish.

19 (Government Exhibits 103A, B, C, D, E, and F, were
20 received in evidence.)

21 (Exhibit published.)

22 MR. HEEREN: So first, if we can please publish
23 Government Exhibits 103A.

24 Q And can you please tell the jury who do we see in this
25 image?

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1 A Johnny Zhu.

2 Q And can you just describe an article of clothing that
3 he's wearing?

4 A He was wearing a purple or blue top with a bag across his
5 shoulder.

6 Q And you see a date and time reflected at the bottom of
7 this exhibit?

8 A Yes, I see that.

9 Q I believe your testimony was you recall the meeting being
10 in the daytime, is that right, your prior testimony?

11 A Yes.

12 Q And so is this timestamp broadly consistent with your own
13 recollection of when you were at the Panera Bread with Tu
14 fanning and the private investigator?

15 A Yes.

16 MR. HEEREN: Now what I'd like to do, show side by
17 side Government Exhibits 103A with Government Exhibit 21 that
18 was previously admitted.

19 (Exhibit published.)

20 MR. HEEREN: Ms. McMahon, can you call out the
21 individual in 103A?

22 Q So fair to say Johnny Zhu looks a bit different in 103A
23 versus Government Exhibit 21?

24 A Yes.

25 Q Is Government Exhibit 21 a picture of Zhu Feng when he

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1 was much younger?

2 A Yes.

3 MR. HEEREN: Okay. Going back to now Government
4 Exhibit 103B, please.

5 (Exhibit published.)

6 Q What do we see in Government Exhibit 103B?

7 A Johnny Zhu was pushing the door to get out.

8 Q And so is this when Johnny Zhu went outside to meet with
9 the private investigate or initially?

10 A Yes.

11 MR. HEEREN: Now turning to Government Exhibit 103C.

12 (Exhibit published.)

13 MR. HEEREN: And if we can just call out the two
14 individuals on the bottom one. Actually, before you do that.

15 Q What do we see in Government Exhibit 103C?

16 MR. GOLDBERGER: I object, Your Honor. This is
17 repetitive. We've seen these pictures now three or four
18 times. It's the same picture we saw before. I don't
19 understand why we have to look at them again and again and
20 again.

21 THE COURT: Overruled.

22 It will go faster if we just go through this.

23 Q What do we see depicted in Government Exhibit 103C?

24 A Johnny Zhu with the private detective.

25 MR. HEEREN: Can we please call out the two

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1 individuals in the bottom corner?

2 Now turning to Government Exhibit 103D.

3 And, Ms. McMahon, can you please call out the
4 bottom -- the two individuals at the bottom.

5 (Exhibit published.)

6 MR. HEEREN: And then finally Government
7 Exhibit 103F.

8 (Exhibit published.)

9 Q And what do we see in Government Exhibit 103F, Mr. Jin?

10 A We can see the backside of the private detective he was
11 meeting.

12 Q Did the private detective meet by himself or with you and
13 Zhu Feng?

14 A He left with someone.

15 MR. HEEREN: You can take that down, Ms. McMahon.

16 Q I believe your testimony earlier was that after you met
17 with the private investigator, you went to the location where
18 you were going to conduct surveillance; is that right?

19 A Yes.

20 Q Why did you do that?

21 A Johnny said there was some matter that Zheng said needed
22 to be confirmed.

23 Q And did you also want to know where you had to go?

24 A Yes.

25 Q And was this on the same date as the meeting with the

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1 private investigator?

2 A Yes.

3 Q And did you, in fact, go to the location where you later
4 conducted surveillance?

5 A I did.

6 Q I want to direct your attention now to April 5th, 2017,
7 the next day.

8 What did you do first that day?

9 A I should be bringing Johnny and Tu Lan to the Newark
10 Airport to rent a car.

11 Q And you used the phrase "should be" again, is that your
12 recollection?

13 A Yes.

14 Q And where did you -- so who went to rent a car?

15 A Me, Tu Lan and Zhu Feng.

16 Q Where did you go to rent a car?

17 A At the Newark Airport.

18 Q Who actually rented the car?

19 A Zhu Feng.

20 Q What was the purpose of renting a car?

21 A Based on my recollection, Zhu Feng had to pick up the
22 father and the doctor.

23 Q And how did you get to the airport to rent the car?

24 A I drove my own car.

25 Q And you took Zhu Feng and Tu Lan in your car to the

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1 airport?

2 A Yes.

3 MR. HEEREN: I'd like to now show the witness what's
4 been marked for identification as Government Exhibit 705B
5 which contains Sub-Exhibits 1 through 6.

6 (Exhibit published to the witness.)

7 Q Do you know what is contained on the disc labeled
8 Government Exhibit 705B?

9 A That is the video of the three of us, as in I, myself,
10 Zhu Feng and Tu Lan went to rent the car.

11 Q When you say "the video," is this a single video or more
12 than one video?

13 A A few of videos.

14 Q How do you know those videos are contained on the discs
15 labeled 705B?

16 A It has my signature, my notation, and the date.

17 Q And were these videos taken when you went to the rental
18 car facility on April 5th, 2017?

19 A Yes.

20 Q Are they fair and accurate depictions of video of the
21 rental car facility when you were there?

22 A Yes.

23 MR. HEEREN: The government moves to admit
24 Exhibit 705-B1 through B6 into evidence.

25 MR. LUSTBERG: No objection.

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1 MS. WONG: No objection.

2 MR. TUNG: No objection.

3 THE COURT: Admitted. You may publish.

4 (Government Exhibits 705-B1 through B6, were
5 received in evidence.)

6 (Exhibit published.)

7 MR. HEEREN: And, Ms. McMahon, can you please cue up
8 and play Government Exhibit 705-B1.

9 (Video played; Video stopped.)

10 Q Mr. Jin, do you recognize anyone in this video?

11 A Yes.

12 Q Who do you recognize in this video?

13 A There are a total of three people.

14 Q Can you tell me who they are that you recognize?

15 A The first one on the far right with the brown top was Zhu
16 Feng. And I was the one wearing the yellow jacket. And the
17 one in pink jacket was Tu Lan.

18 Q And do you see a date and timestamp on the top right
19 corner of this video?

20 A Yes, I see that.

21 THE COURT: How about you just state what that is so
22 we can move this along.

23 Q Is that April 5th, 2017 at 12:15 p.m.?

24 A Yes, it is.

25 Q And is that consistent with your recollection of when you

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1 were renting the car?

2 A Yes.

3 MR. HEEREN: Can we go to the next video please,
4 705-B2.

5 (Video played; Video stopped.)

6 MR. HEEREN: Just pause it now.

7 Q And just to move things along, is that you, Mr. Jin, in
8 the left most side in the yellow jacket?

9 A Yes.

10 Q Is that Zhu Feng in the bottom wearing a maroon T-shirt?

11 A Yes.

12 Q And is that Tu Lan in the pink jacket on the right-hand
13 side?

14 A Yes.

15 MR. HEEREN: You can keep playing it.

16 (Video played; Video stopped.)

17 MR. HEEREN: Now showing Government Exhibit 705-B3.

18 (Video played; Video stopped.)

19 MR. HEEREN: And we can just pause it right here.

20 Q Is that Zhu Feng at the counter renting the vehicle?

21 A Yes.

22 (Continued on the following page.)

23

24

25

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1 (Continuing)

2 DIRECT EXAMINATION

3 BY MR. HEEREN:

4 Q And where are you located in this video?

5 A I was at the top, in the middle part of this image. I
6 was wearing red shoes and wearing yellow jacket.

7 Q Is where I have marked what you're referring to?

8 A Yes.

9 Q And where IS Tu Lan sitting?

10 A She is the one on the top right corner of this image and
11 she was wearing a pink jacket with a handbag.

12 Q Have I marked in the location that you have identified?

13 A Yes.

14 Q We can turn to the next video, that is 705 B 4?

15 MR. GOLDBERGER: Excuse me, Your Honor, the defense
16 has had a little conference. We will stipulate that this is
17 the car that was rented. There is no objection to it all
18 coming into evidence and we've seen all of this. I think that
19 could save probably a lot of time.

20 THE COURT: I'm going to overrule. The Government
21 is permitted to introduce the evidence they wish, but
22 obviously the Government should be mindful to move this long.

23 MR. HEEREN: Of course, Your Honor. And I would
24 note for the record that the last video was about seven
25 minutes long and we skipped past it and will continue doing so

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1 with these video clips.

2 THE COURT: Okay. Perhaps you can play through this
3 now that the people are identified.

4 MR. HEEREN: Yes. I don't plan to ask any further
5 questions on this.

6 And we can skip to 705B-6. We won't be looking at
7 705B-5 right now.

8 So, Ms. McMahon, if you can scroll ahead about
9 halfway through the video, please. Another quarter of the way
10 through after that. Thank you. Okay. Pause it for a second.

11 Q Is this is the vehicle that was rented by Zhu Feng?

12 A Yes.

13 MR. HEEREN: And then if you could scroll ahead
14 about halfway. Another halfway, please. Another halfway,
15 please. Back a little bit. Perfect. Just play from there,
16 please.

17 (Video playing.) (Video stopped.)

18 Q Mr. Jin, where are you going in that video?

19 A I was going towards my car and drove it away.

20 MR. HEEREN: Okay. We can take that down, please.

21 Q After Zhu Feng rented the car with you and Tu Lan, what
22 happened next?

23 A I'm not sure what they were doing and I should have had
24 my meal and then went straight to the house and was surveying.

25 Q Sorry. Did you say that you went to the house that you

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1 were going to be surveilling that day?

2 A That should be the case.

3 Q And what did Zhu Feng and Tu Lan do at that point?

4 A I'm not very sure what the two of them were doing because
5 I did not see it.

6 Q What were they supposed to do according to the plan?

7 A According to the plan, Tu Lan should be at the hotel and
8 Zhu Feng should have driven the car to pick up the father and
9 the doctor at the airport and then send them to the house that
10 needs to be surveyed.

11 Q What airport were they supposed to pick them up at?

12 A I'm not very sure, but from my recollection, it should be
13 the Newark Airport in New Jersey.

14 Q And where was Dr. Li and the father coming from?

15 A They flew from China.

16 Q So, I believe you testified you went to the house to
17 conduct the surveillance; is that right?

18 A Yes.

19 Q And that was on April 5, 2017, the same day that you
20 rented -- that the car was rented and the father and Dr. Li
21 were picked up?

22 A Yes.

23 Q What time of day was it when you began conducting
24 surveillance?

25 A It was April 5, 2017, after the sun set. I'm not sure

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1 what time it was.

2 Q Please describe how the surveillance -- please describe
3 what happened when you were surveilling the house.

4 A I was staying in the car and I put on the night-vision
5 goggles with temperature detection to look at to survey the
6 house.

7 Q Okay. Let's start -- when you say the car, what car were
8 you in?

9 A My own car.

10 Q Can you describe how the surveillance began?

11 A I don't understand your question.

12 Q What did you see first?

13 A I saw Zhu Feng was driving a car and they were two people
14 in the car.

15 Q And what did you see next?

16 A I saw one of the people went into the house that was
17 under surveillance and then Zhu Feng was with another man. He
18 made a few turns and then he stopped near me to pass the
19 goggles to me.

20 Q Who did you see in the car with Zhu Feng, what other
21 people?

22 A That should be the doctor.

23 Q When you say should be, is that what you recall?

24 A Yes.

25 Q Was anyone else in the vehicle with Zhu Feng when you

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1 first saw them?

2 A They were only Zhu Feng and the doctor.

3 Excuse me. I'm getting a bit confused with your
4 question. When you mentioned the first time, can you repeat
5 your question.

6 Q That's okay. I probably asked a bad question.

7 When you first saw the vehicle, where did you see
8 the vehicle drive to.

9 A That car stopped right in front at the door of the house
10 under surveillance.

11 Q Okay. How many people at that time were in the vehicle?

12 A There were three people. They were Zhu Feng was driving
13 and the doctor and also the father.

14 Q What did you see happen after the vehicle pulled up to
15 the house that you were surveilling?

16 A I saw two people came out of the car. They were the
17 doctor and the father. The father entered the home and then
18 Zhu Feng made a few turns with the car and his car stopped me
19 and my car. The doctor came out of the car and gave me the
20 goggles.

21 Q The doctor, was the doctor a man or a woman?

22 A A lady.

23 Q So did the doctor go inside with the father of the house?

24 A No, based on my recollection.

25 Q So she went back to the car with Zhu Feng and drove

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1 around, is your testimony?

2 A Yes.

3 Q So please tell us what happened after they drove back up
4 to you where you were doing surveillance.

5 A Can you please repeat it.

6 Q Sure. Did the vehicle that Zhu Feng was driving
7 eventually drive up to your car?

8 A Yes.

9 Q So what happened after it pulled up to your car?

10 THE INTERPRETER: The interpreter would like to
11 clarify what the witness say.

12 A The doctor pass on the goggles to me and Zhu Feng was
13 sitting in the car.

14 Q When you say goggles, what do you mean by goggles?

15 A That is what I referred to earlier in my testimony as in
16 the night-vision goggles with temperature detection.

17 Q Okay. While you were doing surveillance, did you observe
18 anyone else doing surveillance of the home?

19 A Yes.

20 Q Who else did you observe? Well, what do you remember
21 observing?

22 A I remember I saw the private detective, that team. It
23 was because I was getting bored with the surveillance, so I
24 drove the car and made a circle in front of the house, and the
25 private detective found out about me, so he called Zhu Feng

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1 and Zhu Feng yelled at me. I remember that clearly.

2 Q Sorry. Just to clarify, did you speak to the private
3 detective?

4 A No, I was driving my car and I went past him.

5 Q What did Zhu Feng tell you that made you think the
6 private detective saw you?

7 A Zhu Feng told me that the private detective asked Zhu
8 Feng why there was another group of people doing the
9 surveilling, blah, blah, something like that.

10 Q And were you driving around alone in your car?

11 A Yes.

12 Q When you saw the father show up, did you know that was
13 going to happen?

14 A Yes, I know that.

15 Q Do you have an understanding of why there was a doctor
16 accompanying this man?

17 A I'm not very sure, but my understanding is this: The
18 doctor had to accompany the father. It was because the
19 Government wanted the doctor to survey -- to perform
20 surveillance on the father and also to ensure the father has
21 safely arrived to the house from China.

22 Q How long did you do surveillance for?

23 A I don't remember the exact timing. I should have left
24 after 12:00 a.m. that day.

25 Q Now, you mentioned you were given these night-vision

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1 goggles. Did you actually use them as part of your
2 surveillance?

3 A Yes, I did.

4 Q Can you tell us how you -- how did the evening end in
5 terms of the surveillance for you?

6 A I don't quite understand your question. Can you ask it
7 in another way?

8 Q Yes.

9 Did you just go home at the end of the night or did
10 you do anything before you went home?

11 A Johnny Zhu asked me to take a picture and he also send me
12 a message saying that wait for another half an hour. If
13 nothing happened, then leave and return to the hotel.

14 Q In addition to surveilling the home, did you follow or
15 surveil anyone else?

16 A Yes.

17 Q Please tell us.

18 A Based on my recollection, a car came out from the house
19 and I followed that car, and I followed that car until it went
20 to the toll in New Jersey, and I lost it, and then I came
21 back.

22 Q I am going to show you what has been marked for
23 identification as Government Exhibit 501. Correction, 501A.

24 A Yes.

25 Q If you could briefly scroll through the picture.

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1 And Mr. Jin, do you recognize what's reflected in
2 Government Exhibit 501A?

3 A I know that. That was the goggles I used during my
4 surveillance.

5 Q Is this a fair and accurate depiction of the goggles that
6 you used and other accessories?

7 A Yes.

8 MR. HEEREN: The Government moves to admit
9 Government Exhibit 501A into evidence.

10 MR. GOLDBERGER: No objection.

11 MR. TUNG: No objection.

12 MR. LUSTBERG: No objection.

13 THE COURT: Admitted.

14 (Government Exhibit 501A, was received in evidence.)

15 THE COURT: And then after this, Mr. Heeren, we're
16 going to stop for the day.

17 Do you have a couple of questions about this.

18 MR. HEEREN: I have just one other item, one
19 physical item that goes with this that I think we can admit at
20 the same time if there's no objection.

21 Let me ask one question to the witness.

22 THE COURT: And you may approach. Go ahead.

23 MR. HEEREN: Thank you, Your Honor.

24 Q Do you recognize what has been marked as Government
25 Exhibit 501A?

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1 A I do. I can recognize it.

2 MR. HEEREN: And for the record that's Government
3 Exhibit 501.

4 Q What is it?

5 A That is the golf.

6 MR. HEEREN: The Government moves to admit
7 Government Exhibit 501 into evidence.

8 MR. GOLDBERGER: No objection.

9 MR. LUSTBERG: No objection.

10 MR. TUNG: No objection.

11 THE COURT: Admitted. And why don't we end with
12 that.

13 (Government Exhibit 501, was received in evidence.)

14 MR. HEEREN: Yes, Your Honor.

15 THE COURT: Ladies and gentlemen, it's 5:30, at the
16 end of our trial day. We will start tomorrow at 9:30. Have a
17 great night. Don't talk about the case. Don't do any
18 research and keep an open mind.

19 THE COURTROOM DEPUTY: All rise.

20 THE COURT: You can step down and we will have you
21 leave the courtroom.

22 Thank you, interpreters.

23 (Witness leaves the stand.)

24 THE COURT: Folks, before I let you go, let me ask
25 you about timing. We can do this off the record.

1 (Discussion held off the record.)

2 THE COURT: So let's go on the record now. So
3 regarding Mr. Zheng's post-arrest statement.

4 MS. CHEN: Yes. The Government has consulted with
5 Ms. Wong and Mr. Goldberger, and while the Government
6 preserves its objection, that it's not appropriate under the
7 rule of completeness, we are going to include the short, I
8 think it is three sentences or so noted in Ms. Wong's
9 submission in the overall clip, so it does not essentially
10 need to be argued in front of the Court.

11 THE COURT: So that issue is resolved?

12 MS. CHEN: That's correct.

13 THE COURT: Terrific, folks. We will see you
14 tomorrow morning at 9 o'clock.

15 MR. LUSTBERG: Thank you, Judge.

16 THE COURT: Have a good night.

17 (Whereupon, the trial adjourned at 5:35 p.m.)

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<p>8</p> <p>8 o'clock [1] 904/22</p> <p>801 [1] 900/5</p> <p>804-2777 [1] 878/23</p> <p>807-F [1] 1022/5</p> <p>807A [5] 978/5 978/12 978/14 979/16 994/24</p> <p>807F [7] 897/25 978/23 979/4 979/17 982/5 983/7 994/21</p> <p>811B [3] 899/21 900/4 900/13</p> <p>811C [4] 900/8 900/19 900/24 1061/14</p> <p>812-C [1] 960/14</p> <p>812C [1] 976/9</p> <p>83-year-old [1] 915/3</p> <p>84 [1] 924/25</p> <p>860 [1] 914/11</p> <p>8:15 [1] 1017/18</p> <p>8:30 [1] 904/19</p> <p>8:37 p.m [1] 911/4</p> <p>8:39 a.m [1] 911/12</p> <p>8:40 p.m [1] 911/16</p> <p>8th [5] 904/15 907/7 924/23 925/8 925/10</p>	<p>A</p> <p>a.m [16] 878/5 893/14 899/1 899/13 901/7 902/16 902/19 902/24 905/7 906/5 907/7 911/12 915/18 929/5 958/14 1056/24</p> <p>abide [2] 1029/25 1030/6</p> <p>able [11] 937/14 939/16 973/5 973/8 979/11 995/12 995/18 995/21 1010/17 1025/8 1033/5</p> <p>abundance [1] 894/15</p> <p>accepted [1] 1014/22</p> <p>access [2] 924/12 926/15</p> <p>accessories [1] 1058/6</p> <p>accompany [3] 918/2 976/18 1056/18</p> <p>accompanying [1] 1056/16</p> <p>according [8] 909/19 960/1 1018/12 1022/17 1024/25 1031/15 1052/6 1052/7</p> <p>accordingly [2] 910/25 916/17</p> <p>account [3] 912/11 931/13 933/9</p> <p>accurate [19] 920/9 920/15 920/21 920/25 943/5 970/7 970/8 996/8 1003/22 1003/24 1005/4 1005/11 1006/11 1015/7 1034/12 1038/3 1042/10 1047/20 1058/5</p> <p>accurately [2] 921/10 923/10</p> <p>across [3] 968/17 1028/12 1043/4</p> <p>act [1] 974/1</p> <p>acting [4] 890/1 968/16 971/16 1028/11</p> <p>action [2] 976/6 1016/9</p> <p>actions [1] 969/5</p> <p>actors [1] 988/2</p> <p>acts [1] 1006/18</p> <p>actual [1] 931/5</p> <p>add [1] 880/18</p> <p>added [3] 883/25 887/2 901/9</p> <p>adding [1] 881/1</p> <p>addition [3] 908/1 943/21 1057/14</p> <p>additional [7] 880/1 880/4 880/22 889/12 944/16 958/16 959/20</p> <p>address [7] 883/14 884/3 893/6 894/2 901/19 947/8 976/24</p> <p>adequate [1] 1005/14</p>	
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